# General Assembly

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**Sixty-ninth session**
Agenda item 68 (*c*)

## Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/488/Add.3)*]

### 69/188. Situation of human rights in the Democratic People's Republic of Korea

*The General Assembly*,

*Reaffirming* that all States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations that they have undertaken under the various international instruments,

*Recalling* all previous resolutions adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council on the situation of human rights in the Democratic People's Republic of Korea, including Assembly resolution 68/183 of 18 December 2013 and Council resolution 25/25 of 28 March 2014,[1] and mindful of the need for the international community to strengthen its coordinated efforts aimed at achieving the implementation of those resolutions,

*Deeply concerned* at the grave human rights situation, the pervasive culture of impunity and the lack of accountability for human rights violations in the Democratic People's Republic of Korea,

*Welcoming* the report of the commission of inquiry on human rights in the Democratic People's Republic of Korea,[2] and expressing grave concern at the detailed findings contained therein,

*Noting* the transmission of the report of the commission of inquiry to the Security Council on 14 April 2014,

*Recalling* the responsibility of the Democratic People's Republic of Korea to protect its population from crimes against humanity,

*Taking note* of the report of the Special Rapporteur of the Human Rights Council on the situation of human rights in the Democratic People's Republic of Korea,[3] regretting that he still has not been allowed to visit the country and that he has received no cooperation from the authorities of the Democratic People's

[1] See *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 53* (A/69/53), chap. II.

[2] A/HRC/25/63.

[3] A/69/548.



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Republic of Korea, and taking note also of the comprehensive report of the Secretary-General on the situation of human rights in the Democratic People's Republic of Korea submitted in accordance with resolution 68/183,[4]

*Mindful* that the Democratic People's Republic of Korea is a party to the International Covenant on Civil and Political Rights,[5] the International Covenant on Economic, Social and Cultural Rights,[5] the Convention on the Rights of the Child[6] and the Convention on the Elimination of All Forms of Discrimination against Women,[7] and recalling the concluding observations of the treaty bodies under the four treaties,

*Noting with appreciation* the signature of the Convention on the Rights of Persons with Disabilities[8] and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography[9] by the Democratic People's Republic of Korea, encouraging the Government of the Democratic People's Republic of Korea to take speedy steps to ratify the Convention and the Optional Protocol, and urging the Government to fully respect the rights of persons with disabilities and children,

*Acknowledging* the participation of the Democratic People's Republic of Korea in the second universal periodic review process, noting the acceptance by the Government of the Democratic People's Republic of Korea of 113 out of the 268 recommendations contained in the outcome of the review[10] and its stated commitment to implement them and look into the possibility of implementing a further 58 recommendations, and emphasizing the importance of the implementation of the recommendations in order to address the grave human rights violations in the country,

*Noting with appreciation* the collaboration established between the Government of the Democratic People's Republic of Korea and the United Nations Children's Fund and the World Health Organization in order to improve the health situation in the country, and the collaboration established with the United Nations Children's Fund in order to improve the quality of education for children,

*Noting* the decision on the resumption, on a modest scale, of the activities of the United Nations Development Programme in the Democratic People's Republic of Korea, and encouraging the engagement of the Government of the Democratic People's Republic of Korea with the international community to ensure that the programmes benefit the persons in need of assistance,

*Noting also* the cooperation between the Government of the Democratic People's Republic of Korea and the World Food Programme, the United Nations Children's Fund and the Food and Agriculture Organization of the United Nations on food security assessments, underscoring the importance of those assessments in analysing changes in the national, household and individual food security and nutritional situation and thereby in supporting donor confidence in the targeting of

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[4] A/69/639.

[5] See resolution 2200 A (XXI), annex.

[6] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[7] Ibid., vol. 1249, No. 20378.

[8] Ibid., vol. 2515, No. 44910.

[9] Ibid., vol. 2171, No. 27531.

[10] A/HRC/27/10.

aid programmes, noting further the letter of understanding signed by the Government and the World Food Programme and the importance of further improvements in operating conditions, bringing access and monitoring arrangements closer to international standards for all United Nations entities, and noting with appreciation the work of international aid operators,

*Noting further* the importance of the issue of international abductions and of the immediate return of all abductees, taking note of the outcome of the government-level consultation between the Democratic People's Republic of Korea and Japan in May 2014, and expecting concrete and positive results from the investigations being conducted by the Democratic People's Republic of Korea on all the Japanese nationals, in particular victims of abduction,

*Noting* the importance of the inter-Korean dialogue, which could contribute to the improvement of the human rights and humanitarian situation in the country,

*Welcoming* the resumption of the reunions of separated families across the border in February 2014, and, given that this is an urgent humanitarian concern of the entire Korean people, hoping that necessary arrangements for further reunions on a larger scale and a regular basis will be made by the Democratic People's Republic of Korea, the Republic of Korea and members of the Korean diaspora,

1. *Condemns* the long-standing and ongoing systematic, widespread and gross violations of human rights in the Democratic People's Republic of Korea, including those which the commission of inquiry on human rights in the Democratic People's Republic of Korea, established by the Human Rights Council in its resolution 22/13 of 21 March 2013,[11] has said may amount to crimes against humanity, and the continuing impunity for such violations;

2. *Expresses its very serious concern* at:

(*a*) The persistence of continuing reports of violations of human rights, including the detailed findings made by the commission of inquiry in its report,[2] such as:

(i) Torture and other cruel, inhuman or degrading treatment or punishment, including inhuman conditions of detention; rape; public executions; extrajudicial and arbitrary detention; the absence of due process and the rule of law, including fair trial guarantees and an independent judiciary; extrajudicial, summary and arbitrary executions; the imposition of the death penalty for political and religious reasons; collective punishments extending up to three generations; and the extensive use of forced labour;

(ii) The existence of an extensive system of political prison camps, where a vast number of persons are deprived of their liberty and subjected to deplorable conditions and where alarming violations of human rights are perpetrated, and in this regard strongly urges the Democratic People's Republic of Korea to immediately end this practice and to release all political prisoners unconditionally and without any delay;

(iii) The forcible transfer of populations and the limitations imposed on every person who wishes to move freely within the country and travel abroad, including the punishment of those who leave or try to leave the country

[11] See *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 53* (A/68/53), chap. IV, sect. A.

without permission, or their families, as well as punishment of persons who are returned;

(iv) The situation of refugees and asylum seekers expelled or returned to the Democratic People's Republic of Korea and sanctions imposed on citizens of the Democratic People's Republic of Korea who have been repatriated from abroad, leading to punishments of internment, torture, other cruel, inhuman or degrading treatment, sexual violence or the death penalty, and in this regard strongly urges all States to respect the fundamental principle of non-refoulement, to treat those who seek refuge humanely and to ensure unhindered access to the United Nations High Commissioner for Refugees and his Office, with a view to protecting the human rights of those who seek refuge, and once again urges States parties to comply with their obligations under the 1951 Convention relating to the Status of Refugees[12] and the 1967 Protocol thereto [13] in relation to refugees from the Democratic People's Republic of Korea who are covered by those instruments;

(v) All-pervasive and severe restrictions on the freedoms of thought, conscience, religion or belief, opinion and expression, peaceful assembly and association, the right to privacy and equal access to information, by such means as the persecution, torture and imprisonment of individuals exercising their freedom of opinion and expression, religion or belief, and their families, and the right of everyone to take part in the conduct of public affairs, directly or through freely chosen representatives, of his or her country;

(vi) Violations of economic, social and cultural rights, which have led to severe hunger, malnutrition, widespread health problems and other hardship for the population in the Democratic People's Republic of Korea, in particular for women, children, persons with disabilities and the elderly;

(vii) Violations of the human rights and fundamental freedoms of women, in particular the creation of internal conditions that force women to leave the country and make them extremely vulnerable to trafficking in persons for the purpose of prostitution, domestic servitude or forced marriage and the subjection of women to forced abortions, gender-based discrimination, including in the political and social spheres, and other forms of sexual and gender-based violence;

(viii) Violations of the human rights and fundamental freedoms of children, in particular the continued lack of access to basic economic, social and cultural rights for many children, and in this regard notes the particularly vulnerable situation faced by, inter alia, returned or repatriated children, street children, children with disabilities, children whose parents are detained, children living in detention or in institutions and children in conflict with the law;

(ix) Violations of the human rights and fundamental freedoms of persons with disabilities, especially in the use of collective camps and of coercive measures that target the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children;

(x) Violations of workers' rights, including the right to freedom of association and effective recognition of the right to collective bargaining, the

[12] United Nations, *Treaty Series*, vol. 189, No. 2545.

[13] Ibid., vol. 606, No. 8791.

right to strike as defined by the obligations of the Democratic People's Republic of Korea under the International Covenant on Economic, Social and Cultural Rights,[5] and the prohibition of the economic exploitation of children and of any harmful or hazardous work of children as defined by the obligations of the Democratic People's Republic of Korea under the Convention on the Rights of the Child;[6]

(xi) Discrimination based on the *songbun* system, which classifies people on the basis of State-assigned social class and birth, and also includes consideration of political opinions and religion;

(*b*) The continued refusal of the Government of the Democratic People's Republic of Korea to recognize the mandate of the Special Rapporteur of the Human Rights Council on the situation of human rights in the Democratic People's Republic of Korea or to extend cooperation to the Special Rapporteur;

(*c*) The continued lack of acknowledgement by the Democratic People's Republic of Korea of the grave human rights situation in the country and its consequential lack of action to implement the recommendations contained in the outcome of its first universal periodic review;[14]

(*d*) The failure of the authorities of the Democratic People's Republic of Korea to prosecute those responsible for human rights violations, including violations which the commission of inquiry has said may amount to crimes against humanity;

3. *Underscores its very serious concern* at the systematic abduction, denial of repatriation and subsequent enforced disappearance of persons, including those from other countries, on a large scale and as a matter of State policy, and in this regard strongly calls upon the Government of the Democratic People's Republic of Korea urgently to resolve these issues of international concern, in a transparent manner, including by ensuring the immediate return of abductees;

4. *Expresses its very deep concern* at the precarious humanitarian situation in the country, which could rapidly deteriorate owing to limited resilience to natural disasters and to government policies causing limitations in the availability of and access to food, compounded by structural weaknesses in agricultural production resulting in significant shortages of diversified food and the State restrictions on the cultivation of and trade in foodstuffs, as well as the prevalence of chronic malnutrition, particularly among the most vulnerable groups, pregnant women, children, persons with disabilities and the elderly, and urges the Government of the Democratic People's Republic of Korea, in this regard, to take preventive and remedial action, cooperating where necessary with international donor agencies and in accordance with international standards for monitoring humanitarian assistance;

5. *Commends* the Special Rapporteur for the activities undertaken so far and for his continued efforts in the conduct of his mandate despite the denial of access;

6. *Also commends* the work of the commission of inquiry and recognizes the importance of its report, and regrets that the commission received no cooperation from the authorities of the Democratic People's Republic of Korea, including with regard to access to the country;

[14] A/HRC/13/13.

7. *Acknowledges* the commission's finding that the body of testimony gathered and the information received provide reasonable grounds to believe that crimes against humanity have been committed in the Democratic People's Republic of Korea, pursuant to policies established at the highest level of the State for decades;

8. *Decides* to submit the report of the commission of inquiry to the Security Council, and encourages the Council to consider the relevant conclusions and recommendations of the commission and take appropriate action to ensure accountability, including through consideration of referral of the situation in the Democratic People's Republic of Korea to the International Criminal Court and consideration of the scope for effective targeted sanctions against those who appear to be most responsible for acts that the commission has said may constitute crimes against humanity;

9. *Welcomes* the steps taken by the Office of the United Nations High Commissioner for Human Rights towards establishing a field-based structure in the Republic of Korea to strengthen the monitoring and documentation of the situation of human rights in the Democratic People's Republic of Korea, to ensure accountability, to provide the Special Rapporteur with increased support, to enhance the engagement and capacity-building of the Governments of all States concerned, civil society and other stakeholders and to maintain the visibility of the situation of human rights in the Democratic People's Republic of Korea, including through sustained communications, advocacy and outreach initiatives;

10. *Calls upon* Member States to undertake to ensure that the field-based structure of the Office of the High Commissioner can function with independence, that it has sufficient resources and that it is not subjected to any reprisals or threats;

11. *Strongly urges* the Government of the Democratic People's Republic of Korea to respect fully all human rights and fundamental freedoms and, in this regard:

(*a*) To immediately put an end to the systematic, widespread and grave violations of human rights emphasized above, inter alia, by implementing fully the measures set out in the above-mentioned resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council, and the recommendations addressed to the Democratic People's Republic of Korea by the Council in the context of the universal periodic review and by the commission of inquiry, the United Nations special procedures and treaty bodies;

(*b*) To protect its inhabitants, address the issue of impunity and ensure that those responsible for violations of human rights are brought to justice before an independent judiciary;

(*c*) To tackle the root causes leading to refugee outflows and prosecute those who exploit refugees by human smuggling, trafficking and extortion, while not criminalizing the victims;

(*d*) To ensure that citizens of the Democratic People's Republic of Korea who are expelled or returned to the Democratic People's Republic of Korea are able to return in safety and dignity, are treated humanely and are not subjected to any kind of punishment, and to provide information on their status and treatment;

(*e*) To extend its full cooperation to the Special Rapporteur, including by granting him full, free and unimpeded access to the Democratic People's Republic of Korea, and to other United Nations human rights mechanisms so that a full needs assessment of the human rights situation may be made;

(*f*) To engage in technical cooperation activities in the field of human rights with the United Nations High Commissioner for Human Rights and his Office, as pursued by the High Commissioner in recent years, with a view to improving the situation of human rights in the country, and to strive to implement the accepted recommendations stemming from the universal periodic review;

(*g*) To engage in cooperation with the International Labour Organization;

(*h*) To continue and reinforce its cooperation with United Nations humanitarian agencies;

(*i*) To ensure full, safe and unhindered access to humanitarian aid and take measures to allow humanitarian agencies to secure its impartial delivery to all parts of the country on the basis of need in accordance with humanitarian principles, as it pledged to do, and to ensure access to adequate food and implement more effective food security policies, including through sustainable agriculture, sound food production distribution measures and the allocation of more funds to the food sector, and to ensure adequate monitoring of humanitarian assistance;

(*j*) To further improve cooperation with the United Nations country team and development agencies so that they can directly contribute to improving the living conditions of the civilian population, including accelerating progress towards the achievement of the Millennium Development Goals, in accordance with international monitoring and evaluation procedures;

(*k*) To consider ratifying and acceding to remaining international human rights treaties, which would enable a dialogue with the human rights treaty bodies;

12. *Urges* the Government of the Democratic People's Republic of Korea to implement the recommendations of the commission of inquiry without delay;

13. *Encourages* all Member States, the General Assembly, the Human Rights Council, the Office of the High Commissioner, the United Nations Secretariat, civil society organizations, foundations and engaged business enterprises and other stakeholders towards which the commission of inquiry has directed recommendations to implement or take forward those recommendations;

14. *Welcomes* the recent willingness expressed by the Democratic People's Republic of Korea to consider human rights dialogues with States and groups of States, technical cooperation with the Office of the High Commissioner and a country visit of the Special Rapporteur;

15. *Calls upon* the Democratic People's Republic of Korea to continue to engage constructively with international interlocutors with a view to promoting concrete improvements in the human rights situation on the ground, including through dialogues, official visits to the country and more people-to-people contact;

16. *Decides* to continue its examination of the situation of human rights in the Democratic People's Republic of Korea at its seventieth session, and to this end requests the Secretary-General to submit a comprehensive report on the situation in the Democratic People's Republic of Korea, and requests the Special Rapporteur to continue to report his findings and recommendations, as well as to report on the follow-up to the implementation of the recommendations of the commission of inquiry, in line with Human Rights Council resolution 25/25.[1]

*73rd plenary meeting*
*18 December 2014*

General Assembly

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# Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/488/Add.3)*]

## 69/189. Situation of human rights in the Syrian Arab Republic

*The General Assembly*,

*Guided* by the Charter of the United Nations,

*Reaffirming* the purposes and principles of the Charter, the Universal Declaration of Human Rights[1] and relevant international human rights treaties, including the International Covenants on Human Rights,[2]

*Reaffirming its strong commitment* to the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic and to the principles of the Charter,

*Recalling* its resolutions 66/176 of 19 December 2011, 66/253 A of 16 February 2012, 66/253 B of 3 August 2012, 67/183 of 20 December 2012 and 67/262 of 15 May 2013, Human Rights Council resolutions S-16/1 of 29 April 2011,[3] S-17/1 of 23 August 2011,[3] S-18/1 of 2 December 2011,[4] 19/1 of 1 March 2012,[5] 19/22 of 23 March 2012,[5] S-19/1 of 1 June 2012,[6] 20/22 of 6 July 2012,[7] 21/26 of 28 September 2012,[8] 22/24 of 22 March 2013,[9] 23/1 of 29 May 2013,[10] 23/26 of 14 June 2013,[10] 24/22 of 27 September 2013,[11] 25/23 of 28 March 2014,[12] 26/23 of 27 June 2014[13] and 27/16 of 25 September 2014[14] and Security Council resolutions 2042 (2012) of 14 April 2012, 2043 (2012) of 21 April 2012, 2118 (2013) of 27 September 2013, 2139 (2014) of 22 February 2014, 2165 (2014)

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[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 53* (A/66/53), chap. I.

[4] Ibid., *Supplement No. 53B* and corrigendum (A/66/53/Add.2 and Corr.1), chap. II.

[5] Ibid., *Sixty-seventh Session, Supplement No. 53* and corrigendum (A/67/53 and Corr.1), chap. III, sect. A.

[6] Ibid., chap. V.

[7] Ibid., chap. IV, sect. A.

[8] Ibid., *Supplement No. 53A* (A/67/53/Add.1), chap. III.

[9] Ibid., *Sixty-eighth Session, Supplement No. 53* (A/68/53), chap. IV, sect. A.

[10] Ibid., chap. V, sect. A.

[11] Ibid., *Supplement No. 53A* (A/68/53/Add.1), chap. III.

[12] Ibid., *Sixty-ninth Session, Supplement No. 53* (A/69/53), chap. IV, sect. A.

[13] Ibid., chap. V, sect. A.

[14] Ibid., *Supplement No. 53A* and corrigendum (A/69/53/Add.1 and Corr.1), chap. IV, sect. A.



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of 14 July 2014, 2170 (2014) of 15 August 2014 and 2178 (2014) of 24 September 2014 and the statements by the President of the Council of 3 August 2011[15] and 2 October 2013,[16]

*Condemning* the grave deterioration of the human rights situation and the indiscriminate killing and deliberate targeting of civilians as such, in violation of international humanitarian law, and acts of violence that may foment sectarian tensions,

*Noting with concern* the culture of impunity for serious violations of international humanitarian law and violations and abuses of human rights law committed during the present conflict, which has provided a fertile ground for further violations and abuses,

*Recalling* that, amid expressions of popular discontent over restrictions on the enjoyment of civil, political, economic and social rights, civilian protests erupted in Dar'a in March 2011, and noting that the excessive and violent oppression of civilian protests by the Syrian authorities, which later escalated to the direct shelling of civilian population areas, fuelled the escalation of armed violence and extremist groups,

*Expressing outrage* at the continuing escalation of violence in the Syrian Arab Republic, which has caused more than 191,000 fatalities, and in particular at the continued widespread and systematic gross violations, as well as abuses, of human rights and violations of international humanitarian law, including those involving the continued use of heavy weapons and aerial bombardments, such as the indiscriminate use of ballistic missiles, cluster munitions, barrel and vacuum bombs, and chlorine gas, and starvation of civilians as a method of combat by the Syrian authorities against the Syrian population,

*Expressing grave concern* at the disproportionate use of force by the Syrian authorities against civilians, which has caused immense human suffering and fomented the spread of extremism and extremist groups and which demonstrates the failure of the Syrian authorities to protect the Syrian population and to implement the relevant resolutions and decisions of United Nations bodies,

*Expressing grave concern also* at the spread of extremism and extremist groups, terrorism and terrorist groups, and strongly condemning all violations and abuses of human rights and violations of international humanitarian law committed in the Syrian Arab Republic by any party to the conflict, in particular the so-called Islamic State in Iraq and the Levant, militias fighting on behalf of the regime, Al-Qaida-affiliated terrorist groups and other extremist groups,

*Expressing support* for the work carried out by the Independent International Commission of Inquiry on the Syrian Arab Republic, and strongly condemning the lack of cooperation by the Syrian authorities with the Commission of Inquiry,

*Recalling* the statements made by the Secretary-General, the United Nations High Commissioner for Human Rights and the special procedures of the Human Rights Council that crimes against humanity and war crimes are likely to have been committed in the Syrian Arab Republic, noting the repeated encouragement by the High Commissioner for the Security Council to refer the situation to the International Criminal Court, and regretting that a draft resolution[17] was not adopted despite broad support from Member States,

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[15] S/PRST/2011/16.

[16] S/PRST/2013/15.

[17] S/2014/348.

*Expressing its deepest concern* about the findings of the Commission of Inquiry and also the allegations contained in the evidence presented by "Caesar" in January 2014 regarding the torture and execution of persons incarcerated by the Syrian authorities, and underlining the need for those allegations and similar evidence to be collected, examined and made available for future accountability efforts,

*Welcoming* Security Council resolutions 2139 (2014) and 2165 (2014) and expressing grave concern that implementation remains largely unfulfilled, and noting the urgent need to strengthen efforts to address the humanitarian situation in the Syrian Arab Republic, including through protection of civilians and rapid, safe and unhindered humanitarian access,

*Recalling its commitment* to Security Council resolutions 2170 (2014) and 2178 (2014),

*Expressing deep concern* at the more than 3 million refugees who have been forced to flee the Syrian Arab Republic, of whom more than 750,000 are women and more than 1.5 million are children, and at the 10.8 million people in the Syrian Arab Republic requiring urgent humanitarian assistance, of whom 6.45 million are internally displaced, as well as at the impact of the influx of Syrian refugees into neighbouring countries and other countries in the region, and at the risk the situation presents to regional stability,

*Expressing its profound indignation* at the death of well over 10,000 children and the many more injured since March 2011,

*Expressing its deep appreciation* for the significant efforts that have been made by neighbouring countries and other countries in the region to accommodate Syrian refugees, while acknowledging the increasing political, socioeconomic and financial impact of the presence of large-scale refugee populations in those countries, notably in Lebanon, Jordan, Turkey, Iraq, Egypt and Libya,

*Welcoming* the hosting by the Government of Kuwait of the First and Second International Humanitarian Pledging Conferences for Syria on 30 January 2013 and 15 January 2014, and expressing its deep appreciation for the significant pledges of humanitarian assistance that have been made,

*Welcoming also* the efforts of the United Nations and the League of Arab States and all diplomatic efforts to achieve a political solution to the Syrian crisis based on the final communiqué of the Action Group for Syria (Geneva communiqué) of 30 June 2012, [18] and welcoming further the appointment of Mr. Staffan de Mistura as Special Envoy of the Secretary-General for Syria and expressing its full support for his mission,

*Expressing its regret* that the parties to the conflict in the Syrian Arab Republic, in particular the Syrian authorities, have failed to take advantage of the opportunities to achieve a political solution and form a transitional government with full executive powers based on the Geneva communiqué,

1. *Strongly condemns* all violations and abuses of international human rights law and all violations of international humanitarian law committed against the civilian population, in particular all indiscriminate attacks, including those involving the use of barrel bombs against civilian populated areas and civilian infrastructure, and demands that all parties immediately demilitarize medical facilities and schools and comply with their obligations under international law;

[18] Security Council resolution 2118 (2013), annex II.

2. *Deplores and condemns in the strongest terms* the continued armed violence by the Syrian authorities against the Syrian people since the beginning of the peaceful protests in 2011, and demands that the Syrian authorities immediately put an end to all indiscriminate attacks on civilian areas and public spaces, including those involving the use of terror tactics, airstrikes, barrel and vacuum bombs, chemical weapons and heavy artillery;

3. *Also deplores and condemns in the strongest terms* the continued widespread and systematic gross violations of human rights and fundamental freedoms and all violations of international humanitarian law by the Syrian authorities and the Government-affiliated *shabbiha* militias, including those involving the use of heavy weapons, aerial bombardments, cluster munitions, ballistic missiles, barrel bombs, chemical weapons and other force against civilians, including starvation of the civilian population as a method of combat, attacks on schools, hospitals and places of worship, massacres, arbitrary executions, extrajudicial killings, the killing and persecution of protestors, human rights defenders and journalists, arbitrary detention, enforced disappearances, violations of women's and children's rights, unlawful interference with access to medical treatment, failure to respect and protect medical personnel, torture, systemic sexual and gender-based violence, including rape in detention, and ill-treatment, and further strongly condemns all human rights abuses or violations of international humanitarian law by armed extremists, as well as any human rights abuses or violations of international humanitarian law by armed anti-Government groups;

4. *Further deplores and condemns in the strongest terms* the terrorist acts and violence committed against civilians by the Islamic State in Iraq and the Levant, its violent extremist ideology and its continued gross, systematic and widespread abuses of human rights and violations of international humanitarian law, and reaffirms that terrorism, including the actions of the Islamic State in Iraq and the Levant, cannot and should not be associated with any religion, nationality or civilization;

5. *Reminds* the Government of the Syrian Arab Republic of the obligations of the Syrian Arab Republic under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[19] including to take effective measures to prevent acts of torture in any territory under its jurisdiction, and calls upon all States parties to the Convention to comply with any relevant obligations, including with respect to the extradite or prosecute principle contained in article 7 of the Convention;

6. *Strongly condemns* the reported persistent and widespread use of sexual violence, abuse and exploitation, including in government detention centres, including those run by the intelligence agencies, and notes that such acts may constitute violations of international humanitarian law and international human rights law, and in this regard expresses deep concern at the prevailing climate of impunity for sexual violence crimes;

7. *Also strongly condemns* all violations and abuses committed against children in contravention of applicable international law, such as their recruitment and use, killing and maiming, rape and all other forms of sexual violence, attacks on schools and hospitals, as well as their arbitrary arrest, detention, torture, ill-treatment and their use as human shields;

[19] United Nations, *Treaty Series*, vol. 1465, No. 24841.

8. *Recalls* the statement made by the Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic on 16 September 2014 that the Syrian authorities remain responsible for the majority of the civilian casualties, killing and maiming scores of civilians daily, and decides to transmit the reports of the Commission of Inquiry to the Security Council;

9. *Reaffirms* the Syrian authorities' responsibility for enforced disappearances, and takes note of the assessment of the Commission of Inquiry that the Syrian authorities' use of enforced disappearances amounts to a crime against humanity, and condemns the targeted disappearances of young men following Government-brokered ceasefires;

10. *Demands* that the Syrian authorities cooperate fully with the Commission of Inquiry, including by granting it immediate, full and unfettered access throughout the Syrian Arab Republic;

11. *Also demands* that the Syrian authorities meet their responsibilities to protect the Syrian population;

12. *Strongly condemns* the intervention in the Syrian Arab Republic of all foreign terrorist fighters and those foreign organizations fighting on behalf of the Syrian regime, particularly militia groups such as Hizbullah, Asa'ib Ahl al-Haq and Liwa' Abu al-Fadl al-Abbas, and expresses deep concern that their involvement further exacerbates the deteriorating situation in the Syrian Arab Republic, including the human rights and humanitarian situation, which has a serious negative impact on the region;

13. *Demands* that all foreign terrorist fighters, including those who are fighting in support of the Syrian authorities, immediately withdraw from the Syrian Arab Republic;

14. *Also demands* that all parties immediately put an end to all violations and abuses of international human rights law and international humanitarian law, recalls, in particular, the obligation under international humanitarian law to distinguish between civilian populations and combatants and the prohibition against indiscriminate and disproportionate attacks and all attacks against civilians and civilian objects, further demands that all parties to the conflict take all appropriate steps to protect civilians, including by desisting from attacks directed against civilian objects, such as medical centres, schools and water stations, immediately demilitarize such facilities, avoid establishing military positions in populated areas and enable the evacuation of the wounded and all civilians who wish to do so from besieged areas, and recalls in this regard that the Syrian authorities bear primary responsibility for protecting the population;

15. *Strongly condemns* practices including abduction, hostage-taking, incommunicado detention, torture, brutal murder of innocent civilians and summary executions carried out by non-State armed groups and terrorist groups, most notably the Islamic State in Iraq and the Levant and al-Nusra Front, and underlines that such acts may amount to crimes against humanity;

16. *Deplores* the suffering and torture in detention centres throughout the Syrian Arab Republic as depicted in the reports of the Commission of Inquiry and the Office of the United Nations High Commissioner for Human Rights, demands that the Syrian authorities immediately release all persons arbitrarily detained, including the members of the Syrian Centre for Media and Freedom of Expression, and ensure that detention conditions are consistent with international law, and calls upon the Syrian authorities to publish a list of all detention facilities;

17. *Demands* that the Syrian authorities, the Islamic State in Iraq and the Levant, al-Nusra Front, and all other groups halt the arbitrary detention of civilians and release all civilians detained;

18. *Calls for* the appropriate international monitoring bodies to be granted access to detainees in government prisons and detention centres, including the military facilities referred to in the reports of the Commission of Inquiry;

19. *Strongly condemns* the use of chemical weapons and all indiscriminate methods of warfare in the Syrian Arab Republic, which is prohibited under international law, and notes with grave concern the Commission of Inquiry's findings that the Syrian authorities have repeatedly used chlorine gas as an illegal weapon, which constitutes a violation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction[20] and is prohibited under international law;

20. *Demands* that the Syrian Arab Republic respect fully its obligations under the Chemical Weapons Convention, the decision of 27 September 2013 of the Executive Council of the Organization for the Prohibition of Chemical Weapons[21] and Security Council resolution 2118 (2013) requiring it to declare its programme in full and eliminate it in its entirety, and strongly urges the Syrian Arab Republic to provide full cooperation to the fact-finding mission of the Organization for the Prohibition of Chemical Weapons looking at the allegations of the use of chlorine as a weapon of war and to the declaration assessment team working to verify the chemical weapon declarations of the Syrian Arab Republic and seeking to clarify the gaps and discrepancies discovered therein;

21. *Also demands* that all parties take all appropriate steps to protect civilians, including members of ethnic, religious and confessional communities, and stresses that, in this regard, the primary responsibility to protect the Syrian population lies with the Syrian authorities;

22. *Emphasizes* the need to ensure that all those responsible for violations of international humanitarian law or violations and abuses of human rights law are held to account through appropriate fair and independent, national or international, criminal justice mechanisms in accordance with the principle of complementarity, and stresses the need to pursue practical steps towards this goal, and for this reason encourages the Security Council to take appropriate action to ensure accountability, noting the important role that the International Criminal Court can play in this regard;

23. *Strongly condemns* the intentional denial of humanitarian assistance to civilians, from whatever quarter, in particular the denial of medical assistance and the withdrawal of water and sanitation services to civilian areas, which has recently worsened, stressing that the starvation of civilians as a method of combat is prohibited under international law and noting especially the primary responsibility of the Government of the Syrian Arab Republic in this regard, and deplores the deteriorating humanitarian situation;

24. *Reaffirms its commitment* to international efforts to find a political solution to the Syrian crisis that meets the legitimate aspirations of the Syrian people for a civil, democratic and pluralistic State, with the full and effective participation of women, and where there is no room for sectarianism or discrimination on ethnic, religious, linguistic, gender or any other grounds, and

[20] Ibid., vol. 1974, No. 33757.

[21] Security Council resolution 2118 (2013), annex I.

urges those countries with influence over the Syrian parties, in particular over the Government of the Syrian Arab Republic, to take all measures to encourage the parties to the conflict to negotiate constructively and on the basis of the call made in the Geneva communiqué[18] for the formation of a transitional governing body with full executive powers;

25. *Urges* the international community, including all donors, to provide urgent financial support to enable the host countries to respond to the growing humanitarian needs of Syrian refugees, while emphasizing the principle of burden-sharing;

26. *Calls upon* all members of the international community, including all donors, to fulfil their previous pledges and continue to provide much-needed support to the United Nations, the specialized agencies and other humanitarian actors to provide humanitarian assistance to the millions of Syrians displaced both internally and in host countries;

27. *Urges* all Syrian parties to the conflict to take all appropriate steps to ensure the safety and security of United Nations and associated personnel, personnel of the specialized agencies and all other personnel engaged in humanitarian relief activities as required by international humanitarian law, without prejudice to their freedom of movement and access, stresses the need not to impede or hinder those efforts, recalls that attacks on humanitarian workers may amount to war crimes, and notes in this regard that the Security Council affirmed in its resolution 2165 (2014) that it will take further measures in the event of non-compliance with resolutions 2139 (2014) or 2165 (2014) by any Syrian party.

*73rd plenary meeting*
*18 December 2014*

General Assembly

Distr.: General
21 January 2015

Sixty-ninth session
Agenda item 68 (*c*)

# Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/488/Add.3)*]

## 69/190. Situation of human rights in the Islamic Republic of Iran

*The General Assembly*,

*Guided* by the Charter of the United Nations, as well as the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other international human rights instruments,

*Recalling* its previous resolutions on the situation of human rights in the Islamic Republic of Iran, the most recent of which is resolution 68/184 of 18 December 2013,

1. *Takes note* of the report of the Secretary-General submitted in August 2014 pursuant to resolution 68/184,[3] and the report of the Special Rapporteur of the Human Rights Council on the situation of human rights in the Islamic Republic of Iran[4] submitted in August 2014 pursuant to Council resolution 25/24 of 28 March 2014;[5]

2. *Welcomes* pledges made by the President of the Islamic Republic of Iran with regard to some important human rights issues, particularly on eliminating discrimination against women and members of ethnic minorities and promoting freedom of expression and opinion, and urges the Islamic Republic of Iran to translate them into concrete action that results in demonstrable improvements as soon as possible and to ensure that its national laws are consistent with its obligations under international human rights law and that they are implemented in accordance with its international obligations;

3. *Acknowledges* legislative and administrative changes in the Islamic Republic of Iran that address some human rights concerns, including amendments to the Islamic Penal Code and to the criminal procedure code, and notes efforts to introduce a citizen's rights charter, while urging the Government of the Islamic Republic of Iran to ensure that these measures are consistent with its international human rights obligations;

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[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] A/69/306.

[4] A/69/356.

[5] See *Official Records of the General Assembly, Sixty-ninth Session, Supplement No. 53* (A/69/53), chap. IV, sect. A.



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4. *Also acknowledges* recent engagement by the Islamic Republic of Iran with human rights treaty bodies through the submission of periodic national reports, as well as participation in its second universal periodic review by the Human Rights Council, while remaining seriously concerned about the broader lack of engagement with human rights monitoring mechanisms, including the ongoing lack of response to requests from special procedures mandate holders for information and country visits;

5. *Expresses deep concern* at serious ongoing and recurring human rights violations in the Islamic Republic of Iran relating to, inter alia:

(*a*) The alarming high frequency of and increase in the carrying-out of the death penalty in the absence of internationally recognized safeguards, including public executions, notwithstanding the issuance of a circular by the former head of the judiciary prohibiting public executions, and secret group executions, as well as reports of executions undertaken without the notification of the prisoner's family members or legal counsel;

(*b*) The continuing imposition and carrying-out of the death penalty against minors and persons who at the time of their offence were under the age of 18, in violation of the obligations of the Islamic Republic of Iran under the Convention on the Rights of the Child[6] and the International Covenant on Civil and Political Rights;[2]

(*c*) The imposition of the death penalty for crimes that lack a precise and explicit definition and for crimes that do not qualify as the most serious crimes, in violation of international law;

(*d*) Torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations;

(*e*) Widespread and serious restrictions on the right to peaceful assembly, freedom of association and freedom of opinion and expression, including through continued efforts to block, filter or hinder Internet access and content, including social media outlets, to jam international satellite transmission and to censor or close media outlets;

(*f*) The systematic targeting and harassment of human rights defenders and the renewed targeting of journalists, bloggers and social media users, who face arrest, arbitrary detention, long-term exile and harsh sentences, including the death sentence;

(*g*) Pervasive gender inequality and violence against women and ongoing discrimination against women and girls in law and in practice, including by continuing to limit equal access to employment and to certain fields of higher education, as well as restrictions on access to decision-making positions in the Government and to the labour market, despite the granting of 3 of 11 deputy vice-presidential posts to women;

(*h*) Continued discrimination and other human rights violations, at times amounting to persecution, against persons belonging to ethnic, linguistic or other minorities, including Arabs, Azeris, Balochis and Kurds and their defenders, noting in particular reports of the violent suppression and detention of ethnic Arabs and Azeris, including ongoing violations of their due process rights and alleged torture while imprisoned, and the reported secret execution of members of the Ahwaz Arab community;

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[6] United Nations, *Treaty Series*, vol. 1577, No. 27531.

(*i*) Ongoing severe limitations and restrictions on the right to freedom of thought, conscience, religion or belief and restrictions on the building of, as well as attacks against, places of worship and burial;

(*j*) Continued harassment, at times amounting to persecution, and human rights violations against persons belonging to recognized religious minorities, including Christians, Jews, Sufi Muslims, Sunni Muslims and Zoroastrians and their defenders, noting in particular the arbitrary arrest and detention of Sufi Muslims, Sunni Muslims and evangelical Christians, including the continued detention of Christian pastors;

(*k*) Continued discrimination, persecution and human rights violations against persons belonging to unrecognized religious minorities, particularly members of the Baha'i faith and their defenders, including targeted attacks and murders, without proper investigation to hold those responsible accountable, arbitrary arrests and detention, the denial of access to higher education on the basis of religion, the continued imprisonment of the entire leadership of the Iranian Baha'i community, the closure of Baha'i-owned businesses, the desecration and destruction of Baha'i cemeteries and the effective criminalization of membership in the Baha'i faith;

(*l*) Continued and sustained house arrest of leading opposition figures from the 2009 presidential elections, despite serious concerns about their health, as well as ongoing restrictions on their supporters and family members, including through harassment, intimidation and reprisals;

(*m*) Persistent failure to uphold due process of law, and violations of the rights of detainees, including the widespread and systematic use of arbitrary detention and enforced disappearance, the lack of access of detainees to legal representation of their choice, the refusal to consider granting bail to detainees, the poor conditions of prisons, the denial of access to adequate medical treatment and the consequent risk of death faced by prisoners, detainees being subjected to torture, rape and other forms of sexual violence, harsh interrogation techniques and the use of pressure exerted upon their relatives and dependants, including through arrest, to obtain false confessions that are then used at trials and are broadcast on national television;

(*n*) Continuing arbitrary or unlawful interference by State authorities with the privacy of individuals, in particular in relation to private homes, and with their correspondence, including telephone and e-mail communications, in violation of international law;

6. *Calls upon* the Government of the Islamic Republic of Iran to address the substantive concerns highlighted in the reports of the Secretary-General and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, as well as the specific calls to action found in previous resolutions of the General Assembly, and to respect fully its human rights obligations, in law and in practice, in particular:

(*a*) To abolish, in law and in practice, public executions and other executions carried out in the absence of respect for internationally recognized safeguards, including by stoning and suspension strangulation;

(*b*) To further revisit the revised Islamic Penal Code to make it consistent with its obligation, under article 37 of the Convention on the Rights of the Child and article 6 of the International Covenant on Civil and Political Rights, to abolish executions of minors and persons who at the time of their offence were under the age of 18;

(*c*) To eliminate, in law and in practice, all forms of torture and other cruel, inhuman or degrading treatment or punishment;

(*d*) To eliminate, in law and in practice, all forms of discrimination and other human rights violations against women and girls, including to address the increasing incidence of child, early and forced marriage, to promote women's participation in decision-making positions and, while recognizing the high enrolment of women in all levels of education, to lift all restrictions on women's equal access to all aspects of university education and promote women's participation in the labour market and in all aspects of economic, cultural, social and political life;

(*e*) To eliminate, in law and in practice, all forms of discrimination and other human rights violations against persons belonging to religious, ethnic, linguistic or other minorities, recognized or otherwise;

(*f*) To eliminate discrimination against, and exclusion of, members of certain groups with respect to access to higher education based on their political, ethnic or religious affiliations or community, including through the unqualified readmission of those students previously excluded for these reasons, to eliminate the criminalization of efforts to provide higher education to Baha'i youth denied access to Iranian universities and to release those imprisoned for this reason;

(*g*) To implement, inter alia, the 1996 report of the Special Rapporteur on religious intolerance, [7] in which he recommended ways in which the Islamic Republic of Iran could emancipate the Baha'i community, to release the seven Baha'i leaders held since 2008 and to accord all Baha'is, including those imprisoned because of their beliefs, the due process of law and the rights that they are constitutionally guaranteed;

(*h*) To launch a comprehensive accountability process in response to cases of serious human rights violations, including those involving the Iranian judiciary and security agencies, and to end impunity for such violations, including those that took place during the attack that injured dozens of prisoners in Evin prison in April 2014, as promised by the Government;

(*i*) To fulfil repeated pledges by the President for greater space for freedom of expression and opinion by ending the ongoing harassment, intimidation and persecution of political opponents, human rights defenders, women's and minority rights activists, labour leaders, students, academics, film-makers, journalists and their families, other media representatives, bloggers, social media users, clerics, artists and lawyers, including by releasing persons who continue to be detained arbitrarily or on the basis of their political views;

(*j*) To end restrictions on, and the arbitrary arrest of, the press and media representatives, Internet users and Internet providers, including the selective jamming of satellite broadcasts, that violate the rights to freedom of expression and association, and, while the General Assembly welcomes the decision of the Government to increase Internet speed, it further encourages improvements to facilitate open and free Internet access;

(*k*) To uphold, in law and in practice, procedural guarantees to ensure due process of law;

7. *Also calls upon* the Government of the Islamic Republic of Iran to strengthen its national human rights institutions in accordance with the principles relating to the status of national institutions for the promotion and protection of

[7] E/CN.4/1996/95/Add.2.

human rights (the Paris Principles)[8] by establishing an independent national human rights institution as it committed itself to doing in the framework of its first universal periodic review by the Human Rights Council,[9] with due regard for the recommendation of the Committee on Economic, Social and Cultural Rights;[10]

8. *Notes* the recent engagement by the Islamic Republic of Iran with human rights treaty bodies, including the submission of national periodic reports to the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities, and calls upon the Government of the Islamic Republic of Iran to consider acting upon the concluding observations adopted by those Committees;

9. *Calls upon* the Government of the Islamic Republic of Iran to effectively implement its obligations under those human rights treaties to which it is already a party, to withdraw any reservations that it may have made upon signature or ratification of other international human rights instruments where such reservations are overly general, imprecise or could be considered incompatible with the object and purpose of the treaty, to consider acting upon the concluding observations concerning the Islamic Republic of Iran adopted by the bodies of the international human rights treaties to which it is a party and to consider ratifying or acceding to the international human rights treaties to which it is not already a party;

10. *Notes with concern* the poor implementation record of the Government of the Islamic Republic of Iran in respect of the recommendations that it had accepted during its first universal periodic review by the Human Rights Council, and strongly encourages the Government to implement all accepted recommendations, including from its second universal periodic review, with the full and genuine participation of independent civil society and other stakeholders in the implementation process;

11. *Expresses deep concern* that, despite the standing invitation issued by the Islamic Republic of Iran to all thematic special procedures mandate holders, it has not fulfilled any requests from those special mechanisms to visit the country in nine years and has left unanswered the vast majority of the numerous and repeated communications from those special mechanisms, and strongly urges the Government of the Islamic Republic of Iran to fully cooperate with the special mechanisms, including facilitating their visits to its territory, so that credible and independent investigations of all allegations of human rights violations can be conducted;

12. *Expresses serious concern* about allegations of reprisals against individuals for their cooperation or contact with United Nations human rights mechanisms or representatives;

13. *Strongly encourages* the thematic special procedures mandate holders to pay particular attention to, with a view to investigating and reporting on, the human rights situation in the Islamic Republic of Iran, in particular the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the

[8] Resolution 48/134, annex.

[9] See A/HRC/14/12 and Add.1 and Add.1/Corr.1.

[10] See E/C.12/IRN/CO/2.

right to education, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, the Special Rapporteur on minority issues, the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances and the Working Group on the issue of discrimination against women in law and in practice of the Human Rights Council;

14. *Welcomes* the recent engagement, through country visits, of the heads of United Nations agencies, and urges the Government of the Islamic Republic of Iran to deepen its engagement with United Nations human rights mechanisms;

15. *Encourages* the Government of the Islamic Republic of Iran to continue to explore cooperation on human rights and justice reform with the United Nations, including the Office of the United Nations High Commissioner for Human Rights;

16. *Continues to call upon* the Government of the Islamic Republic of Iran to cooperate fully with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and other international human rights mechanisms, including by accepting the repeated requests made by the Special Rapporteur to visit the country to carry out his mandate;

17. *Requests* the Secretary-General to report to the General Assembly at its seventieth session on the progress made in the implementation of the present resolution, including options and recommendations to improve its implementation, and to submit an interim report to the Human Rights Council at its twenty-eighth session;

18. *Decides* to continue its examination of the situation of human rights in the Islamic Republic of Iran at its seventieth session under the item entitled "Promotion and protection of human rights".

*73rd plenary meeting*
*18 December 2014*

General Assembly

Distr.: General
26 January 2015

**Sixty-ninth session**
Agenda item 105

## Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/489)*]

### 69/191. Follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice

*The General Assembly*,

*Emphasizing* the responsibility assumed by the United Nations in the field of crime prevention and criminal justice in pursuance of Economic and Social Council resolution 155 C (VII) of 13 August 1948 and General Assembly resolution 415 (V) of 1 December 1950,

*Acknowledging* that the United Nations congresses on crime prevention and criminal justice, as major intergovernmental forums, have influenced national policies and practices and promoted international cooperation in that field by facilitating the exchange of views and experience, mobilizing public opinion and recommending policy options at the national, regional and international levels,

*Recognizing* the significant contributions of the United Nations congresses on crime prevention and criminal justice in promoting the exchange of experience in research, law and policy development and the identification of emerging trends and issues in crime prevention and criminal justice among States, intergovernmental organizations, non-governmental organizations and individual experts representing various professions and disciplines,

*Recognizing also* the efforts already made by the Government of Qatar to prepare for the hosting of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice in Doha, including its generous contribution to support the capacity of the Secretariat to ensure effective preparations for the Thirteenth Congress,

*Recalling* its resolution 56/119 of 19 December 2001 on the role, function, periodicity and duration of the United Nations congresses on the prevention of crime and the treatment of offenders, in which it stipulated the guidelines in accordance with which, beginning in 2005, the congresses, pursuant to paragraphs



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29 and 30 of the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme,[1] should be held,

*Recalling also* its resolution 65/230 of 21 December 2010 and its resolutions 66/179 of 19 December 2011, 67/184 of 20 December 2012 and 68/185 of 18 December 2013 on the follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice,

*Recalling further*, in particular, that in its resolution 68/185 it decided to hold the Thirteenth Congress in Doha from 12 to 19 April 2015, with pre-Congress consultations to be held on 11 April 2015,

*Mindful* that in its resolution 68/185 it also decided that the high-level segment of the Thirteenth Congress would be held during the first two days of the Congress in order to allow Heads of State or Government and government ministers to focus on the main theme of the Congress[2] and to enhance the possibility of generating useful feedback,

*Mindful also* that in its resolution 68/185 it further decided that, in accordance with its resolution 56/119, the Thirteenth Congress would adopt a single declaration, to be submitted to the Commission on Crime Prevention and Criminal Justice for its consideration, and that the declaration would contain the major recommendations reflecting and emerging from the deliberations of the high-level segment, as well as the discussion of the agenda items and the workshops,

1. *Reiterates its invitation* to Governments to take into consideration the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World[3] and the recommendations adopted by the Twelfth United Nations Congress on Crime Prevention and Criminal Justice when formulating legislation and policy directives and to make all efforts, where appropriate, to implement the principles contained therein, taking into account the economic, social, legal and cultural specificities of their respective States;

2. *Reiterates its invitation* to Governments and relevant intergovernmental and non-governmental organizations to inform the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice about their activities aimed at the implementation of the Salvador Declaration and the recommendations adopted by the Twelfth Congress, with a view to providing guidance on the formulation of legislation, policies and programmes in the field of crime prevention and criminal justice at the national and international levels, and to that end requests the Secretary-General to prepare a report on the subject, to be submitted to the Congress for its consideration;

3. *Notes with appreciation* the progress made thus far in the preparations for the Thirteenth Congress;

4. *Takes note with appreciation* of the report of the Secretary-General;[4]

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[1] Resolution 46/152, annex.

[2] "Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation".

[3] Resolution 65/230, annex.

[4] E/CN.15/2014/6.

5. *Also takes note with appreciation* of the discussion guide prepared by the Secretary-General, in cooperation with the institutes of the United Nations crime prevention and criminal justice programme network, for the regional preparatory meetings and for the Thirteenth Congress;[5]

6. *Acknowledges* the relevance of the regional preparatory meetings, which have examined the substantive items of the agenda and the workshop topics of the Thirteenth Congress and made action-oriented recommendations,[6] to serve as a basis for the draft declaration to be adopted by the Thirteenth Congress;

7. *Requests* the Commission on Crime Prevention and Criminal Justice to begin, in accordance with its resolution 68/185, the preparation of a short and concise draft declaration, reflecting the theme of the Thirteenth Congress, at intersessional meetings to be held well in advance of the Congress, taking into account the recommendations of the regional preparatory meetings and consultations with relevant organizations and entities;

8. *Emphasizes* the importance of the workshops to be held during the Thirteenth Congress, and invites Member States, intergovernmental and non-governmental organizations and other relevant entities to provide financial, organizational and technical support to the United Nations Office on Drugs and Crime and to the institutes of the United Nations crime prevention and criminal justice programme network for the preparations for the workshops, including the preparation and circulation of relevant background material;

9. *Reiterates its invitation* to donor countries to cooperate with developing countries to ensure their full participation in the workshops, and encourages States, other entities concerned and the Secretary-General to work together in order to ensure that the workshops focus on their respective issues and achieve practical results, leading to technical cooperation ideas, projects and documents related to enhancing bilateral and multilateral efforts in technical assistance activities in the field of crime prevention and criminal justice;

10. *Reiterates its request* to the Secretary-General to make available the resources necessary to ensure the participation of the least developed countries in the Thirteenth Congress, in accordance with past practice;

11. *Encourages* Governments to make preparations for the Thirteenth Congress at an early stage by all appropriate means, including, where appropriate, the establishment of national preparatory committees, with a view to contributing to a focused and productive discussion on the topics and to participating actively in the organization and conduct of the workshops, the submission of national position papers on the various substantive items of the agenda and the encouragement of contributions from the academic community and relevant scientific institutions;

12. *Reiterates its invitation* to Member States to be represented at the Thirteenth Congress at the highest appropriate level, for example by Heads of State or Government or government ministers and attorneys general, to make statements in the high-level segment on the theme and substantive items of the Congress and to participate actively in its proceedings by sending legal and policy experts with special training and practical experience in crime prevention and criminal justice;

[5] A/CONF.222/PM.1.

[6] See A/CONF.222/RPM.1/1, A/CONF.222/RPM.2/1, A/CONF.222/RPM.3/1 and A/CONF.222/RPM.4/1.

13. *Reiterates its request* to the Secretary-General to facilitate the organization of ancillary meetings of non-governmental and professional organizations participating in the Thirteenth Congress, in accordance with past practice, as well as meetings of professional and geographical interest groups, and to take appropriate measures to encourage the participation of the academic and research community in the Congress;

14. *Also reiterates its request* to the Secretary-General to encourage the participation of representatives from relevant entities of the United Nations system in the Thirteenth Congress, bearing in mind the main theme, agenda items and workshop topics of the Congress;

15. *Welcomes* the plan for the documentation of the Thirteenth Congress, prepared by the Secretary-General in consultation with the extended Bureau of the Commission on Crime Prevention and Criminal Justice;[7]

16. *Also welcomes* the appointment by the Secretary-General of a secretary-general and an executive secretary of the Thirteenth Congress, who will perform their functions under the rules of procedure for United Nations congresses on crime prevention and criminal justice;

17. *Requests* the Secretary-General to prepare an overview of the state of crime and criminal justice worldwide for presentation at the Thirteenth Congress, in accordance with past practice;

18. *Requests* the Commission to give high priority at its twenty-fourth session to considering the declaration of the Thirteenth Congress, with a view to recommending, through the Economic and Social Council, appropriate follow-up by the General Assembly at its seventieth session;

19. *Requests* the Secretary-General to ensure proper follow-up to the present resolution and to report thereon, through the Commission, to the General Assembly at its seventieth session.

*73rd plenary meeting*
*18 December 2014*

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[7] E/CN.15/2014/6, sect. II.C.

General Assembly

Distr.: General
26 January 2015

Sixty-ninth session
Agenda item 105

## Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/489)*]

### 69/192. Standard Minimum Rules for the Treatment of Prisoners

*The General Assembly*,

*Guided* by the principal purposes of the United Nations, as set out in the Preamble to the Charter of the United Nations and the Universal Declaration of Human Rights,[1] and inspired by the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, without distinction of any kind, and in the equal rights of men and women and of nations large and small, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and to promote social progress and better standards of life in larger freedom,

*Bearing in mind* the long-standing concern of the United Nations for the humanization of criminal justice and the protection of human rights,

*Aware* that the Standard Minimum Rules for the Treatment of Prisoners[2] remain the universally acknowledged minimum standards for the detention of prisoners and that they have been of value and influence in the development of correctional laws, policies and practices since their adoption by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in 1955,

*Mindful* that, in the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World,[3] Member States recognized that an effective, fair, accountable and humane criminal justice system was based on the commitment to uphold the protection of human rights in the administration of justice and the prevention and control of crime, and acknowledged the value and impact of the United Nations standards and norms in crime prevention and criminal justice in designing and implementing national crime prevention and criminal justice policies, laws, procedures and programmes,

[1] Resolution 217 A (III).

[2] *Human Rights: A Compilation of International Instruments*, Volume I (First Part), *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

[3] Resolution 65/230, annex.



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*Taking into account* the progressive development of international standards pertaining to the treatment of prisoners since 1955, including in international instruments such as the International Covenant on Civil and Political Rights,[4] the International Covenant on Economic, Social and Cultural Rights[4] and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[5] and the Optional Protocol thereto,[6] and other relevant United Nations standards and norms in crime prevention and criminal justice related to the treatment of prisoners, namely, the procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners,[7] the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,[8] the Code of Conduct for Law Enforcement Officials,[9] the Basic Principles for the Treatment of Prisoners,[10] the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,[11] the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules),[12] the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,[13] the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines),[14] the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules),[15] the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)[16] and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,[17]

*Mindful* of its resolution 67/166 of 20 December 2012 on human rights in the administration of justice, in which it recognized the importance of the principle that persons deprived of their liberty shall retain their non-derogable human rights and all other human rights and fundamental freedoms, except for those lawful limitations that are demonstrably necessitated by the fact of incarceration, and took note of general comment No. 21 on the humane treatment of persons deprived of their liberty, adopted by the Human Rights Committee,[18] as well as Human Rights Council resolution 24/12 of 26 September 2013,[19] in which the Council noted the work of the open-ended intergovernmental Expert Group on the Standard Minimum Rules for the Treatment of Prisoners, reiterating that any changes should not lower any existing standards but should reflect recent advances in correctional science and best practices,

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[4] See resolution 2200 A (XXI), annex.

[5] United Nations, *Treaty Series*, vol. 1465, No. 24841.

[6] Ibid., vol. 2375, No. 24841.

[7] Economic and Social Council resolution 1984/47, annex.

[8] Resolution 43/173, annex.

[9] Resolution 34/169, annex.

[10] Resolution 45/111, annex.

[11] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

[12] Resolution 40/33, annex.

[13] Resolution 45/113, annex.

[14] Resolution 45/112, annex.

[15] Resolution 45/110, annex.

[16] Resolution 65/229, annex.

[17] Resolution 67/187, annex, including principles on persons who are detained, arrested, suspected of, or charged with a criminal offence punishable by a term of imprisonment or the death penalty.

[18] *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40* (A/47/40), annex VI.B.

[19] Ibid., *Sixty-eighth Session, Supplement No. 53A* (A/68/53/Add.1), chap. III.

*Recalling* its resolution 65/230 of 21 December 2010, in which it requested the Commission on Crime Prevention and Criminal Justice to establish an open-ended intergovernmental expert group to exchange information on best practices, as well as national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on possible next steps, and requested the Expert Group to report to the Commission on progress in its work,

*Recalling also* its resolutions 67/188 of 20 December 2012 and 68/190 of 18 December 2013, entitled "Standard Minimum Rules for the Treatment of Prisoners", as well as its resolution 68/156 of 18 December 2013, entitled "Torture and other cruel, inhuman or degrading treatment or punishment", in particular paragraph 38 thereof,

*Recalling further* that, in its resolution 67/184 of 20 December 2012 on follow-up to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, it decided that one of the workshops to be held within the framework of the Thirteenth Congress would be devoted to the topic "Role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems: experiences and lessons learned in meeting the unique needs of women and children, in particular the treatment and social reintegration of offenders",

1. *Notes with appreciation* the further progress made during the third meeting of the open-ended intergovernmental Expert Group on the Standard Minimum Rules for the Treatment of Prisoners, held in Vienna from 25 to 28 March 2014;[20]

2. *Expresses its gratitude* to the Government of Brazil for its financial support for the third meeting of the Expert Group;

3. *Acknowledges* the work done by the Expert Group at its previous meetings, held in Vienna from 31 January to 2 February 2012[21] and in Buenos Aires from 11 to 13 December 2012;[22]

4. *Also acknowledges* the work accomplished by the Secretariat in preparing the relevant documentation, in particular the working paper for the third meeting,[23] as well as the determined progress achieved at the meetings of the Expert Group in reviewing the Standard Minimum Rules for the Treatment of Prisoners;[2]

5. *Expresses appreciation* for the important submissions and suggestions of Member States pursuant to the request to exchange information on best practices and on the revision of the existing Standard Minimum Rules, as reflected in the working paper submitted to the Expert Group at its third meeting;

6. *Reiterates* that any changes to the Standard Minimum Rules should not lower any of the existing standards, but should reflect the recent advances in correctional science and good practices so as to promote safety, security and humane conditions for prisoners;

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[20] See E/CN.15/2014/19 and Corr.1.

[21] See E/CN.15/2012/18.

[22] See E/CN.15/2013/23.

[23] UNODC/CCPCJ/EG.6/2014/CRP.1.

7. *Recognizes* the need for the Expert Group to continue to take into account the social, legal and cultural specificities, as well as human rights obligations, of Member States;

8. *Notes* that the revision process should maintain the existing scope of application of the Standard Minimum Rules;

9. *Acknowledges with appreciation* the important contributions received from the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment,[24] the Office of the United Nations High Commissioner for Human Rights and the Committee on the Rights of Persons with Disabilities, as well as other submissions received for consideration from a number of intergovernmental and non-governmental organizations, and invites them in this regard to continue to be actively involved in the Expert Group process, in accordance with the rules of procedure of the functional commissions of the Economic and Social Council;

10. *Acknowledges* that the revision of the Standard Minimum Rules is a time-intensive exercise of crucial importance, emphasizes that efforts should be made to finalize the revision process, building on the recommendations made at the three meetings of the Expert Group and the submissions of Member States, for consideration at the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, to be held in Doha in 2015, and also emphasizes that the concern for a speedy process should not compromise the quality of the outcome;

11. *Decides* to extend the mandate of the Expert Group, authorizing it to continue its work, with the aim of reaching a consensus, and to present a report to the Thirteenth Congress, for the information of the workshop on the role of the United Nations standards and norms in crime prevention and criminal justice in support of effective, fair, humane and accountable criminal justice systems, and to the Commission on Crime Prevention and Criminal Justice at its twenty-fourth session for consideration, and requests the Secretary-General to ensure that the required services and support are provided;

12. *Invites* the bureau of the third meeting of the Expert Group to continue to be involved in the revision of the rules by preparing, with the assistance of the Secretariat, a revised consolidated working paper, in all official languages of the United Nations, consisting of the draft revised rules, which should reflect the progress achieved so far, including the recommendations made by the Expert Group at its meetings held in Buenos Aires in 2012 and in Vienna in 2014, also taking into account proposals for revision put forward by Member States in relation to the areas and rules identified by the General Assembly in paragraph 6 of its resolution 67/188, for submission to and consideration by the Expert Group at its next meeting;

13. *Expresses its gratitude* to the Government of South Africa for its intention to host the next meeting of the Expert Group, and welcomes any support, in particular financial support, that other interested countries and organizations may wish to provide;

14. *Invites* Member States to actively participate in the next meeting of the Expert Group and to include in their delegations persons with a variety of expertise from relevant disciplines;

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[24] A/68/295.

15. *Encourages* Member States to improve conditions in detention, consistent with the principles of the Standard Minimum Rules and all other relevant and applicable international standards and norms, to continue exchanging good practices, such as those regarding conflict resolution in detention facilities, including in the area of technical assistance, to identify challenges faced in implementing the Rules and share their experiences in dealing with those challenges and to provide relevant information in that regard to their experts participating in the Expert Group;

16. *Also encourages* Member States to promote the implementation of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),[16] as well as the United Nations Rules for the Protection of Juveniles Deprived of their Liberty;[13]

17. *Recommends* that Member States continue to endeavour to reduce prison overcrowding and, where appropriate, resort to non-custodial measures as alternatives to pretrial detention, to promote increased access to justice and legal defence mechanisms, to reinforce alternatives to imprisonment and to support rehabilitation and reintegration programmes, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);[15]

18. *Reiterates its request* to the Secretary-General to continue to promote the use and application of the United Nations standards and norms in crime prevention and criminal justice by, inter alia, providing advisory services and technical assistance to Member States, on request, including assistance in crime prevention, criminal justice and law reform, and in the organization of training for law enforcement, crime prevention and criminal justice personnel and support in the administration and management of penal and penitentiary systems, thus contributing to the upgrading of their efficiency and capabilities;

19. *Reaffirms* the important role of the United Nations crime prevention and criminal justice programme network and intergovernmental and non-governmental organizations in consultative status with the Economic and Social Council in contributing to the dissemination, promotion and practical application of the Standard Minimum Rules for the Treatment of Prisoners, in accordance with the procedures for their effective implementation;[7]

20. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes outlined in the present resolution, in accordance with the rules and procedures of the United Nations.

*73rd plenary meeting*
*18 December 2014*

General Assembly

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## Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/489)*]

### 69/193. International cooperation in criminal matters

*The General Assembly*,

*Recalling* the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] the United Nations Convention against Transnational Organized Crime and the Protocols thereto[2] and the United Nations Convention against Corruption,[3] as well as the international counter-terrorism conventions and protocols,

*Conscious* of the need to respect human dignity and to give effect to the rights conferred upon every person involved in criminal proceedings, in accordance with applicable international human rights instruments,

*Concerned* that transnational organized crime has diversified globally and represents a threat to health and safety and to the sustainable development of Member States,

*Convinced* that transnational organized crime, including in its new and emerging forms, creates significant challenges for Member States and that effective responses depend on strengthened international cooperation in criminal matters,

*Emphasizing* the importance of strengthened and collaborative efforts by all Member States to ensure the creation and promotion of strategies and mechanisms in all areas of international cooperation, especially in extradition, mutual legal assistance, transfer of sentenced persons and the confiscation of proceeds of crime,

*Convinced* that the establishment of bilateral and multilateral arrangements for mutual assistance in criminal matters can contribute to the development of more effective international cooperation to combat transnational crime,

*Bearing in mind* that the United Nations standards and norms in crime prevention and criminal justice provide important tools for the development of international cooperation,

[1] United Nations, *Treaty Series*, vol. 1582, No. 27627.
[2] Ibid., vols. 2225, 2237, 2241 and 2326, No. 39574.
[3] Ibid., vol. 2349, No. 42146.



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*Recalling* its resolutions 45/117 of 14 December 1990 on the Model Treaty on Mutual Assistance in Criminal Matters and 53/112 of 9 December 1998 on mutual assistance and international cooperation in criminal matters,

*Recalling also* its resolutions 45/116 of 14 December 1990 on the Model Treaty on Extradition and 52/88 of 12 December 1997 on international cooperation in criminal matters,

*Recalling further* its resolution 45/118 of 14 December 1990 on the Model Treaty on the Transfer of Proceedings in Criminal Matters,

*Recalling* the Model Bilateral Agreement on the Sharing of Confiscated Proceeds of Crime or Property,[4]

*Recalling also* the adoption by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders of the Model Agreement on the Transfer of Foreign Prisoners[5] and the recommendations on the treatment of foreign prisoners,[6]

*Taking into consideration* the establishment of regional networks, including those established with the assistance of the United Nations Office on Drugs and Crime, such as the Central American Network of Prosecutors against Organized Crime and the Network of West African Central Authorities and Prosecutors against Organized Crime, whose prime objective is to strengthen regional and international cooperation in criminal matters, facilitating cooperation in ongoing cases and the delivery of related legal and technical assistance,

*Noting with satisfaction* the contributions of the United Nations congresses on crime prevention and criminal justice in promoting international cooperation by facilitating, inter alia, the exchange of experience in research, law and policy development and the identification of emerging trends and issues in crime prevention and criminal justice among States, intergovernmental organizations, non-governmental organizations and individual experts representing various professions and disciplines,

1. *Encourages* Member States to promote and strengthen international cooperation to further develop the capacities of criminal justice systems, including through efforts to modernize and strengthen relevant legislation related to international cooperation in criminal matters, and the use of modern technology to overcome problems that hinder cooperation in a number of areas, such as witness testimony by videoconference, where applicable, and the exchange of digital evidence;

2. *Urges* Member States that have not yet done so to consider ratifying or acceding to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[2] the United Nations Convention against Corruption[3] and the international counter-terrorism conventions and protocols, and calls upon Member States, where necessary, to incorporate the provisions of those instruments into their national legislation;

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[4] Economic and Social Council resolution 2005/14, annex.

[5] *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August–6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.1, annex I.

[6] Ibid., annex II.

3. *Calls upon* Member States to apply the principle of "extradite or prosecute" contained in bilateral and regional agreements, as well as in the 1988 Convention, the Organized Crime Convention and the Protocols thereto, the Convention against Corruption and the international counter-terrorism conventions and protocols;

4. *Encourages* Member States, in accordance with their national laws, to afford one another, where feasible, mutual legal assistance in civil and administrative proceedings in relation to the offences for which cooperation is afforded, including in accordance with article 43, paragraph 1, of the Convention against Corruption;

5. *Invites* Member States to conclude bilateral and regional agreements or arrangements on international cooperation in criminal matters, and in doing so to take into account the relevant provisions under the Convention against Corruption, the Organized Crime Convention and the Protocols thereto and the 1988 Convention;

6. *Encourages* Member States, relevant international organizations and institutes of the United Nations crime prevention and criminal justice programme network to strengthen cooperation and partnership with the United Nations Office on Drugs and Crime, which serves as the secretariat to the Convention against Corruption, the Organized Crime Convention and the Protocols thereto and the 1988 Convention;

7. *Urges* Member States that have not yet done so to designate central authorities responsible for mutual legal assistance requests in accordance with article 18, paragraph 13, of the Organized Crime Convention, article 46, paragraph 13, of the Convention against Corruption and article 7, paragraph 8, of the 1988 Convention;

8. *Requests* the United Nations Office on Drugs and Crime to continue to provide technical assistance to Member States, upon request, in order to enhance the capacity of experts and staff of central authorities to effectively and expeditiously deal with mutual legal assistance requests;

9. *Commends* the United Nations Office on Drugs and Crime for its development of technical assistance tools to facilitate international cooperation in criminal matters, and invites Member States in appropriate cases to avail themselves of those tools;

10. *Requests* the United Nations Office on Drugs and Crime to continue to support central authorities in strengthening communication channels and, as appropriate, in exchanging information at both the regional and the international levels, for the purposes of enhancing the effectiveness of cooperation in criminal matters in all its aspects, especially in dealing with requests for mutual legal assistance;

11. *Encourages* Member States to ensure, where possible, that administrative procedures facilitate cooperation in criminal matters relating to the offences falling within the scope of the Organized Crime Convention, the Convention against Corruption, the 1988 Convention and the international counter-terrorism conventions and protocols, in accordance with national legislation;

12. *Also encourages* Member States to review their national policies, legislation and practices with regard to mutual legal assistance, extradition, confiscation of the proceeds of crime, the transfer of sentenced persons and other forms of international cooperation in criminal matters for the purpose of simplifying and enhancing cooperation among Member States;

13. *Further encourages* Member States to give due consideration to the humanitarian and social dimensions of the transfer of sentenced persons, where legislation provides for such transfer, for the purpose of achieving the greatest possible cooperation in the transfer of foreign prisoners so that they serve the rest of their sentence in their own countries;

14. *Requests* the United Nations Office on Drugs and Crime, in coordination and cooperation with Member States, to collect and disseminate information about the national legal requirements of Member States concerning international cooperation in criminal matters for the purpose of enhancing the knowledge and strengthening the capacity of practitioners so that they can better understand different legal systems and their requirements with regard to international cooperation while avoiding duplication of the work done in the Conference of the Parties to the United Nations Convention against Transnational Organized Crime;

15. *Also requests* the United Nations Office on Drugs and Crime to continue to support the establishment and functioning of regional networks of central authorities responsible for dealing with mutual legal assistance requests, so as to contribute to the exchange of experiences and strengthen knowledge-based expertise in the area of international cooperation in criminal matters and to help to establish international networks and partnerships among Member States;

16. *Invites* Member States to provide input to the United Nations Office on Drugs and Crime concerning the model treaties on international cooperation in criminal matters, in particular addressing the question of the necessity of updating or revising them and the prioritization of such updating or revising;

17. *Also invites* Member States, during the consideration of the agenda item of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, to provide their views regarding the updating or revising mentioned in paragraph 16 above;

18. *Recommends* that the Commission on Crime Prevention and Criminal Justice, at its twenty-fourth session, take into account the input received from Member States and consider initiating a review of particular model treaties on international cooperation in criminal matters;

19. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes of the present resolution, in accordance with the rules and procedures of the United Nations.

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# Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/489)*]

## 69/194. United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice

*The General Assembly*,

*Recalling* the Universal Declaration of Human Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the International Covenant on Civil and Political Rights,[2] the Convention on the Rights of the Child[3] and all other relevant international and regional treaties,

*Recalling also* the numerous international standards and norms in the field of crime prevention and criminal justice, in particular on juvenile justice, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules),[4] the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines),[5] the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,[6] the Guidelines for Action on Children in the Criminal Justice System,[7] the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime,[8] the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),[9] the updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice,[10] the Guidelines for the Prevention of Crime,[11] the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,[12] the guidelines for

[1] Resolution 217 A (III).
[2] See resolution 2200 A (XXI), annex.
[3] United Nations, *Treaty Series*, vol. 1577, No. 27531.
[4] Resolution 40/33, annex.
[5] Resolution 45/112, annex.
[6] Resolution 45/113, annex.
[7] Economic and Social Council resolution 1997/30, annex.
[8] Economic and Social Council resolution 2005/20, annex.
[9] Resolution 65/229, annex.
[10] Resolution 65/228, annex.
[11] Economic and Social Council resolution 2002/13, annex.
[12] Resolution 67/187, annex.



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cooperation and technical assistance in the field of urban crime prevention,[13] the Code of Conduct for Law Enforcement Officials,[14] the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials[15] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,[16]

*Recalling further* its relevant resolutions, as well as those of the Economic and Social Council, the Human Rights Council and the Commission on Human Rights,[17]

*Convinced* that violence against children is never justifiable and that it is the duty of States to protect children, including those in conflict with the law, from all forms of violence and human rights violations and to exercise due diligence to prohibit, prevent and investigate acts of violence against children, eliminate impunity and provide assistance to the victims, including prevention of revictimization,

*Acknowledging* the value of the joint report of the Office of the United Nations High Commissioner for Human Rights, the United Nations Office on Drugs and Crime and the Special Representative of the Secretary-General on Violence against Children on prevention of and responses to violence against children within the juvenile justice system,[18] the report of the United Nations High Commissioner for Human Rights on access to justice for children[19] and the joint report of the Special Rapporteur on the sale of children, child prostitution and child pornography and the Special Representative of the Secretary-General on Violence against Children on accessible and child-sensitive counselling, complaint and reporting mechanisms to address incidents of violence,[20]

*Noting with appreciation* the important work on child rights in the context of crime prevention and criminal justice conducted by United Nations agencies, funds and programmes, including the United Nations Office on Drugs and Crime, the Office of the High Commissioner and the United Nations Children's Fund, and by the Special Representative and relevant mandate holders and treaty bodies, and welcoming the active participation of civil society in this field of work,

*Emphasizing* that children, by reason of their physical and mental development, face particular vulnerabilities and need special safeguards and care, including appropriate legal protection,

*Emphasizing also* that children in contact with the justice system as victims, witnesses or alleged or recognized offenders must be treated in a child-sensitive manner and with respect for their rights, dignity and needs,

*Stressing* that the right for all to have access to justice and the provision that child victims or witnesses of violence and children and juveniles in conflict with the law are entitled to the same legal guarantees and protection as are accorded to adults, including all fair trial guarantees, form an important basis for strengthening the rule of law through the administration of justice,

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[13] Economic and Social Council resolution 1995/9, annex.

[14] Resolution 34/169, annex.

[15] Economic and Social Council resolution 1989/61, annex.

[16] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

[17] Including General Assembly resolutions 62/141, 62/158, 63/241, 64/146, 65/197, 65/213, 66/138, 66/139, 66/140, 66/141, 67/152 and 67/166; Economic and Social Council resolutions 2007/23 and 2009/26; and Human Rights Council resolutions 7/29, 10/2, 18/12, 19/37, 22/32 and 24/12.

[18] A/HRC/21/25.

[19] A/HRC/25/35 and Add.1.

[20] A/HRC/16/56.

*Recognizing* the complementary roles of crime prevention, the criminal justice system, child protection agencies and the health, education and social sectors, as well as civil society, in creating a protective environment and preventing and responding to incidents of violence against children,

*Being aware* of the different economic, social and cultural contexts of crime prevention and criminal justice prevailing in each Member State,

*Recalling* its resolution 68/189 of 18 December 2013, in which it requested the United Nations Office on Drugs and Crime to convene a meeting of an open-ended intergovernmental expert group, in collaboration with all relevant United Nations entities, in particular the United Nations Children's Fund, the Office of the High Commissioner and the Special Representative, to develop a draft set of model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice, to be considered by the Commission on Crime Prevention and Criminal Justice at its session following the meeting of the open-ended intergovernmental expert group,

1. *Strongly condemns* all acts of violence against children, reaffirms the duty of the State to protect children from all forms of violence in both public and private settings, and calls for the elimination of impunity, including by investigating and prosecuting, with due process, and punishing all perpetrators;

2. *Expresses its extreme concern* about the secondary victimization of children that may occur within the justice system, and reaffirms the responsibility of States to protect children from this form of violence;

3. *Welcomes* the work done at the meeting of the expert group on the development of draft model strategies and practical measures on the elimination of violence against children in the field of crime prevention and criminal justice, held in Bangkok from 18 to 21 February 2014, and takes note with appreciation of its report;[21]

4. *Adopts* the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice annexed to the present resolution;

5. *Urges* Member States to take all necessary and effective measures, as appropriate, to prevent and respond to all forms of violence against children who come in contact with the justice system as victims, witnesses or alleged or recognized offenders, and to provide for consistency in their laws and policies and in the application thereof in order to promote the implementation of the Model Strategies and Practical Measures;

6. *Also urges* Member States to remove any barrier, including any kind of discrimination, that children may face in accessing justice and in effectively participating in criminal proceedings, to pay particular attention to the issue of the rights of the child and the child's best interests in the administration of justice and to ensure that children in contact with the criminal justice system are treated in a child-sensitive manner, taking into account the specific needs of those children who are in particularly vulnerable situations;

7. *Encourages* Member States that have not yet integrated crime prevention and children's issues into their overall rule of law efforts to do so, and to develop and implement a comprehensive crime prevention and justice system policy, with a

[21] See E/CN.15/2014/14/Rev.1.

view to preventing the involvement of children in criminal activities, promoting the use of alternative measures to detention, such as diversion and restorative justice, adopting reintegration strategies for former child offenders and complying with the principle that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pretrial detention for children;

8. *Encourages* Member States, where appropriate, to strengthen multisectoral coordination among all relevant government agencies in order to better prevent, identify and respond to the multidimensional nature of violence against children and to ensure that criminal justice and other relevant professionals are adequately trained to deal with children;

9. *Also encourages* Member States to establish and strengthen child rights monitoring and accountability systems, as well as mechanisms for the systematic research, collection and analysis of data on violence against children and on the systems designed to address violence against children, with a view to assessing the scope and incidence of such violence and the impact of policies and measures adopted to reduce it;

10. *Stresses* the importance of preventing incidents of violence against children and of responding in a timely manner to support child victims of violence, including to prevent their revictimization, and invites Member States to adopt knowledge-based, comprehensive and multisectoral prevention strategies and policies to address the factors that give rise to violence against children and that expose them to the risk of violence;

11. *Requests* the United Nations Office on Drugs and Crime to take steps to ensure the broad dissemination of the Model Strategies and Practical Measures;

12. *Also requests* the United Nations Office on Drugs and Crime, at the request of Member States, to identify the needs and capacities of countries and to provide technical assistance and advisory services to Member States in order to develop or strengthen, as appropriate, legislation, procedures, policies and practices to prevent and respond to violence against children and to ensure respect for the rights of the child in the administration of justice;

13. *Further requests* the United Nations Office on Drugs and Crime to closely coordinate with the institutes of the United Nations crime prevention and criminal justice programme and with other relevant national and regional institutes with a view to developing training materials and offering training and other capacity-building opportunities, in particular for practitioners working in the areas of crime prevention and criminal justice and for providers of support services for the victims of violence against children and for child witnesses within the criminal justice system, and to disseminate information on successful practices;

14. *Invites* the Commission on Crime Prevention and Criminal Justice and the Human Rights Council, as well as the United Nations Office on Drugs and Crime, the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the Special Representative of the Secretary-General on Violence against Children, the Committee on the Rights of the Child and relevant regional and international intergovernmental and non-governmental organizations, to strengthen cooperation in supporting the efforts of States to eliminate all forms of violence against children;

15. *Encourages* Member States to promote country-to-country, regional and interregional technical cooperation in sharing best practices in the implementation of the Model Strategies and Practical Measures;

16. *Invites* Member States and other donors to provide extrabudgetary contributions for the purposes outlined in the present resolution, in accordance with the rules and procedures of the United Nations.

*73rd plenary meeting*
*18 December 2014*

## Annex

## United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice

### Introduction

1. The United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice have been prepared to help Member States to address the need for integrated strategies for violence prevention and child protection, thereby offering children the protection to which they have an unqualified right.

2. The Model Strategies and Practical Measures take into consideration the complementary roles of the justice system on the one hand, and the child protection, social welfare, health and education sectors on the other, in creating a protective environment and in preventing and responding to violence against children. They draw attention to the need for Member States to ensure that criminal law is used appropriately and effectively to criminalize various forms of violence against children, including forms of violence prohibited by international law. The Model Strategies and Practical Measures will enable criminal justice institutions to strengthen and focus their efforts to prevent and respond to violence against children, and to increase their diligence in investigating, convicting and rehabilitating perpetrators of violent crimes against children.

3. The Model Strategies and Practical Measures take into account the fact that children who are alleged as, accused of or recognized as having infringed criminal law, especially those who are deprived of their liberty, face a high risk of violence. Because special attention must be paid to the especially vulnerable situation of these children, the Model Strategies and Practical Measures are aimed at not only improving the effectiveness of the criminal justice system in preventing and responding to violence against children, but also at protecting children against any violence that may result from their contact with the justice system.

4. The Model Strategies and Practical Measures reflect the fact that some of the perpetrators of violence against children are themselves children and often victims of violence. The need to protect child victims in such instances cannot negate the rights of all of the children involved to have their best interests considered as a matter of primary importance.

5. The Model Strategies and Practical Measures are grouped into three broad categories: general prevention strategies to address violence against children as part of broader child protection and crime prevention initiatives; strategies and measures to improve the ability of the criminal justice system to respond to crimes of violence

against children and to protect child victims effectively; and strategies and measures to prevent and respond to violence against children in contact with the justice system. Good practices are set forth, to be considered and used by Member States within the framework of their national legal systems in a manner consistent with applicable international instruments, including relevant human rights instruments, and taking into consideration relevant United Nations standards and norms in crime prevention and criminal justice. Member States should be guided by the Model Strategies and Practical Measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.

**Definitions**

6. For the purposes of the Model Strategies and Practical Measures:

(*a*) "Child" means, as in article 1 of the Convention on the Rights of the Child,[22] "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier";

(*b*) A "child protection system" refers to the national legal framework, formal and informal structures, functions and capacities to prevent and respond to violence against and abuse, exploitation and neglect of children;

(*c*) "Children in contact with the justice system" refers to children who come into contact with the justice system as victims or witnesses, children alleged as, accused of or recognized as having infringed criminal law, or children who are in any other situation requiring legal proceedings, for example regarding their care, custody or protection, including cases involving children of incarcerated parents;

(*d*) "Child-sensitive" denotes an approach that takes into consideration the child's right to protection and individual needs and views in accordance with the age and maturity of the child;

(*e*) "Child victims" denotes children who are victims of crime regardless of their role in the offence or in the prosecution of the alleged offender or group of offenders;

(*f*) "Crime prevention" comprises strategies and measures that seek to reduce the risk of crimes occurring and their potential harmful effects on individuals and society, including fear of crime, by intervening to influence the multiple causes of crime;

(*g*) "Criminal justice system" refers to laws, procedures, professionals, authorities and institutions that apply to victims, witnesses and persons alleged as, accused of or recognized as having infringed criminal law;

(*h*) "Deprivation of liberty" means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which that person is not permitted to leave at will, by order of any judicial, administrative or other public authority;

(*i*) "Diversion" refers to a process for dealing with children alleged as, accused of or recognized as having infringed criminal law as an alternative to judicial proceedings, with the consent of the child and the child's parents or legal guardian;

[22] United Nations, *Treaty Series*, vol. 1577, No. 27531.

(*j*) "Informal justice system" refers to the resolution of disputes and the regulation of conduct by adjudication or with the assistance of a neutral third party that is not part of the judiciary as established by law and/or whose substantive, procedural or structural foundation is not primarily based on statutory law;

(*k*) A "juvenile justice system" comprises laws, policies, guidelines, customary norms, systems, professionals, institutions and treatment specifically applicable to children alleged as, accused of or recognized as having infringed criminal law;

(*l*) "Legal aid" includes legal advice, assistance and representation for persons detained, arrested or imprisoned as a result of being suspected or accused of or charged with a criminal offence, and for victims and witnesses in the criminal justice process, which is provided at no cost for those without sufficient means or when the interests of justice so require. Furthermore, "legal aid" is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes;

(*m*) A "protective environment" is an environment conducive to ensuring to the maximum extent possible the survival and development of the child, including physical, mental, spiritual, moral, psychological and social development, in a manner compatible with human dignity;

(*n*) "Restorative justice programme" means any programme that uses restorative processes and seeks to achieve restorative outcomes;

(*o*) "Restorative process" means any process in which the victim and the offender and, where appropriate, any other individuals or community members affected by a crime participate actively together in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles;

(*p*) "Violence" means all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.

**Guiding principles**

7. In implementing the Model Strategies and Practical Measures at the national level, Member States should be guided by the following principles:

(*a*) That the inherent rights of the child to life, survival and development are protected;

(*b*) That the right of the child to have his or her best interests as a primary consideration in all matters involving or affecting him or her is respected, whether the child is a victim or a perpetrator of violence, as well as in all measures of prevention and protection;

(*c*) That every child is protected from all forms of violence without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status;

(*d*) That the child is informed of his or her rights in an age-appropriate manner and that the right of the child to be consulted and to express his or her views freely in all matters affecting him or her is fully respected;

(*e*) That all strategies and measures to prevent and respond to violence against children are designed and implemented from a gender perspective that specifically addresses gender-based violence;

(*f*) That the specific vulnerabilities of children and the situations they find themselves in, including children in need of special protection and children committing criminal offences under the age of criminal responsibility, should be addressed as part of comprehensive violence prevention strategies and identified as a priority for action;

(*g*) That measures to protect child victims of violence are non-coercive and do not compromise the rights of these children.

## Part one

## Prohibiting violence against children, implementing broad prevention measures and promoting research and data collection

8. Child protection should begin with the proactive prevention of violence and the explicit prohibition of all forms of violence. Member States have the duty to take appropriate measures that effectively protect children from all forms of violence.

### I. Ensuring the prohibition by law of all forms of violence against children

9. Recognizing the importance of the existence of a sound legal framework which prohibits violence against children and empowers authorities to respond appropriately to incidents of violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments, to ensure:

(*a*) That their laws are comprehensive and effective in prohibiting and eliminating all forms of violence against children and that provisions that justify, allow for or condone violence against children or may increase the risk of violence against children are removed;

(*b*) That cruel, inhuman or degrading treatment or punishment of children is prohibited and eliminated in all settings, including schools.

10. Because a countless number of girls and boys fall victim to harmful practices undertaken under different pretexts or grounds, including female genital mutilation or cutting, forced marriage, breast ironing and witchcraft rituals, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To establish by law a clear and comprehensive prohibition of all harmful practices against children, supported by detailed provisions in relevant legislation to secure the effective protection of girls and boys from those practices, to provide means of redress and to fight impunity;

(*b*) To remove from all national legislation any legal provisions that provide justification or allow for consent to harmful practices against children;

(*c*) To ensure that resorting to informal justice systems does not jeopardize children's rights or preclude child victims from accessing the formal justice system, and to establish the supremacy of international human rights law.

11. Recognizing the serious nature of many forms of violence against children and the need to criminalize these conducts, Member States should review and update their criminal law to ensure that the following acts are fully covered thereunder:

(*a*) Engaging in sexual activities with a child who is under the legal age of consent, ensuring as well that an appropriate "age of protection" or "legal age of consent", below which a child cannot legally consent to sexual activity, is set;

(*b*) Engaging in sexual activities with a child using coercion, force or threats, abusing a position of trust, authority or influence over a child, including within the family, and abusing a particularly vulnerable situation of a child, because of a mental or physical disability or a situation of dependence;

(*c*) Committing sexual violence against a child, including sexual abuse, sexual exploitation and sexual harassment through or facilitated by the use of new information technologies, including the Internet;

(*d*) The sale of or trafficking in children for any purpose and in any form;

(*e*) Offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation of the child, transfer of organs of the child for profit or engagement of the child in forced labour;

(*f*) Offering, obtaining, procuring or providing a child for child prostitution;

(*g*) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography;

(*h*) Slavery or practices similar to slavery, debt bondage and serfdom and forced labour, including forced or compulsory recruitment of children for use in armed conflict;

(*i*) Committing gender-related violence against a child and, in particular, gender-related killing of girls.

## II. Implementing comprehensive prevention programmes

12. General and context-specific measures should be developed by Member States to prevent violence against children. Prevention measures, building on a growing understanding of factors that give rise to violence against children and addressing the risks of violence to which children are exposed, should be part of a comprehensive strategy to eliminate violence against children. Criminal justice agencies, working together with, as appropriate, child protection, social welfare, health and education agencies and civil society organizations, should develop effective violence prevention programmes as part of both broader crime prevention programmes and initiatives to build a protective environment for children.

13. Preventing the victimization of children through all available means should be recognized as a crime prevention priority. Member States are therefore urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To strengthen existing child protection systems and to help to create a protective environment for children;

(*b*) To adopt measures to prevent violence within the family and the community, address cultural acceptance or tolerance of violence against children, including gender-related violence, and challenge harmful practices;

(*c*) To encourage and support the development and implementation at every level of government of comprehensive plans for the prevention of violence against children in all of its forms, based on in-depth analysis of the problem and incorporating:

(i) An inventory of existing policies and programmes;

(ii) Well-defined responsibilities for the relevant institutions, agencies and personnel involved in preventive measures;

(iii) Mechanisms for the appropriate coordination of preventive measures between governmental and non-governmental agencies;

(iv) Evidence-based policies and programmes that are continually monitored and carefully evaluated in the course of implementation;

(v) Parental capacity-building and family support as the primary preventive measures, while strengthening child protection in school and in the community;

(vi) Methods for effectively identifying, mitigating and reducing the risk of violence against children;

(vii) Public awareness-raising and community involvement in prevention policies and programmes;

(viii) Close interdisciplinary cooperation, with the involvement of all relevant agencies, civil society groups, local and religious leaders and, where relevant, other stakeholders;

(ix) Participation of children and families in policies and programmes for the prevention of criminal activities and victimization;

(*d*) To identify the specific vulnerabilities and risks faced by children in different situations and to adopt proactive measures to reduce those risks;

(*e*) To take appropriate actions to support and protect all children, in particular children in different situations of vulnerability and children in need of special protection;

(*f*) To be guided by the Guidelines for the Prevention of Crime[23] and play a leading role in developing effective crime prevention strategies and in creating and maintaining institutional frameworks for their implementation and review.

14. The risk of violence against children committed by children should be addressed by specific prevention measures, including measures:

(*a*) To prevent physical, psychological and sexual violence exerted, often through bullying, by children against other children;

(*b*) To prevent the violence sometimes exerted by groups of children, including violence by youth gangs;

(*c*) To prevent the recruitment, use and victimization of children by youth gangs;

(*d*) To identify and protect children, in particular girls, who are linked to gang members and who are vulnerable to sexual exploitation;

(*e*) To encourage law enforcement agencies to use multi-agency intelligence to proactively profile local risk and, accordingly, to direct enforcement and disruption activity.

15. The risk of violence associated with trafficking in children and various forms of exploitation by criminal groups should be addressed by specific prevention measures, including measures:

(*a*) To prevent the recruitment, use and victimization of children by criminal groups, terrorist entities or violent extremist groups;

[23] Economic and Social Council resolution 2002/13, annex.

(*b*) To prevent the sale of children, trafficking in children, child prostitution and child pornography;

(*c*) To prevent the production, possession and dissemination of images and all other materials that depict, glorify or incite violence against children, including when perpetrated by children, particularly through information technologies, such as the Internet, in particular social networking environments.

16. Broad public education and awareness campaigns are required. Member States, in cooperation with educational institutions, non-governmental organizations, relevant professional associations and the media, are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To implement and support effective public awareness and public education initiatives that prevent violence against children by promoting respect for their rights and by educating their families and communities about the harmful impact of violence;

(*b*) To raise awareness of how to prevent and respond to violence against children among persons who have regular contact with children in the justice, child protection, social welfare, health and education sectors and in areas relating to sport, culture and leisure activities;

(*c*) To encourage and support inter-agency cooperation in implementing violence prevention activities and programmes, planning and delivering public information campaigns, training professionals and volunteers, gathering data on the incidence of violence against children, monitoring and evaluating the effectiveness of programmes and strategies and exchanging information on good practices and lessons learned;

(*d*) To encourage the private sector, in particular the information and communications technology sector, the tourism and travel industry and the banking and finance sectors, and civil society to participate in the development and implementation of policies to prevent the exploitation and abuse of children;

(*e*) To encourage the media to contribute to community efforts to prevent and respond to violence against children and to promote changes in social norms that tolerate such violence, and to encourage the establishment of media-led ethical guidelines that will allow child-friendly coverage and reportage on cases involving child victims of abuse, exploitation, neglect and discrimination, taking into consideration the right of children to privacy;

(*f*) To involve children, their families, communities, local leaders, religious leaders and criminal justice and other relevant professionals in discussing the impact and detrimental effects of violence against children and ways to prevent violence and eliminate harmful practices;

(*g*) To challenge attitudes that condone or normalize violence against children, including the tolerance and acceptance of corporal punishment and harmful practices, and the acceptance of violence.

17. In order to address the vulnerability and the specific risks of violence faced by unaccompanied children, migrant children and children who are refugees or asylum seekers, Member States are urged, as appropriate and without prejudice to their obligations under international law:

(*a*) To ensure that these children have access to independent assistance, advocacy and advice, that they are always placed in appropriate accommodation and

treated in a manner that is fully compatible with their best interests, that they are separated from adults when necessary to protect them and, when applicable, to sever relationships with smugglers and traffickers, and that a legally appointed representative is available from the moment an unaccompanied child is detected by the authorities;

(*b*) To conduct regular analyses of the nature of the threats faced by these children and to assess their needs for assistance and protection;

(*c*) To uphold the principle of burden-sharing and solidarity with the host country and to enhance international cooperation.

### III. Promoting research and data collection, analysis and dissemination

18. Member States, the institutes of the United Nations crime prevention and criminal justice programme network, relevant entities of the United Nations system, other relevant international organizations, research institutes, non-governmental organizations and professional associations are urged, as appropriate:

(*a*) To set up and strengthen mechanisms for the systematic and coordinated collection of data on violence against children, including on violence against children in contact with the justice system;

(*b*) To monitor and publish periodic reports on cases of violence against children reported to the police and other criminal justice agencies, including the number of cases, apprehension or arrest and clearance rates, prosecution and case disposition with regard to the alleged offenders and the prevalence of violence against children and, in so doing, to make use of data derived from population-based surveys. The reports should disaggregate data by type of violence and include, for example, information on the age and sex of the alleged offender and his or her relationship to the victim;

(*c*) To develop a multilevel system of reporting, starting from the most basic unit of government to the national level and to allow, in accordance with national legislation, the exchange of relevant information, statistics and data among all relevant institutions to help to ensure comprehensive data gathering for policy and programme development that will promote child protection;

(*d*) To develop population-based surveys and child-sensitive methodologies aimed at collecting data regarding children, including crime and victimization surveys, to allow for assessment of the nature and extent of violence against children;

(*e*) To develop and implement indicators relating to the performance of the justice system in preventing and responding to violence against children;

(*f*) To develop and monitor indicators relating to the prevalence of violence against children in contact with the justice system;

(*g*) To evaluate the efficiency and effectiveness of the justice system in meeting the needs of child victims of violence and preventing such violence, including with regard to the way in which the justice system treats child victims of violence, the use it makes of different intervention models and the degree to which it cooperates with other agencies responsible for the protection of children, and also to evaluate and assess the impact of current legislation, rules and procedures relating to violence against children;

(*h*) To collect, analyse and disseminate data on independent inspections of places of detention, access to complaint mechanisms by children in detention and outcomes of complaints and investigations in accordance with the obligations of States under international human rights law;

(*i*) To use research studies and data collection to inform policy and practice and to exchange and disseminate information concerning successful violence prevention practices;

(*j*) To encourage and provide sufficient financial support for research on violence against children;

(*k*) To ensure that data, periodic reports and research are aimed at supporting the efforts of Member States to address violence against children and are used in the framework of constructive cooperation and dialogue with and among Member States.

## Part two

## Enhancing the ability and capacity of the criminal justice system to respond to violence against children and protect child victims

### IV. Establishing effective detection and reporting mechanisms

19. In order to respond to the need to detect and report acts of violence against children, Member States are urged, as appropriate:

(*a*) To ensure that measures are taken to identify risk factors for different types of violence and identify signs of actual violence in order to trigger appropriate intervention as early as possible;

(*b*) To ensure that criminal justice professionals who routinely come into contact with children in the course of their work are aware of risk factors and indicators of various forms of violence, in particular at the national level, and that they have received guidance and are trained on how to interpret such indicators and have the knowledge, willingness and ability necessary to take appropriate action, including the provision of immediate protection;

(*c*) To legally require professionals who routinely come into contact with children in the course of their work to notify appropriate authorities if they suspect that a child is, or is likely to become, a victim of violence;

(*d*) To ensure that safe child- and gender-sensitive approaches, procedures and complaint, reporting and counselling mechanisms are established by law, are in conformity with the obligations of Member States under the relevant international human rights instruments, take into account relevant international standards and norms on crime prevention and criminal justice and are easily accessible to all children and their representative or a third party without fear of reprisal or discrimination;

(*e*) To ensure that individuals, and in particular children, reporting in good faith alleged incidents of violence against children are protected against all forms of reprisal;

(*f*) To work with Internet service providers, mobile telephone companies, search engines, public Internet facilities and others to facilitate and, where feasible, enact appropriate legislative measures to ensure the reporting of any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes, defined as child pornography under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography[24] to the

[24] United Nations, *Treaty Series*, vol. 2171, No. 27531.

police or other authorized bodies and the blocking of access to websites where such material is available or the deletion of illegal content, and to keep records, in accordance with the law, and preserve evidence for a period of time and as determined by law for the purpose of investigation and prosecution.

## V. Offering effective protection to child victims of violence

20. In order to more effectively protect child victims of violence through the criminal justice process and avoid their secondary victimization, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments, to take appropriate measures:

(*a*) To ensure that laws clearly define the roles and responsibilities of government departments and define standards for the actions of other institutions, services and facilities responsible for the detection of violence against children and the care and protection of children, in particular in cases of domestic violence;

(*b*) To ensure that police and other law enforcement agencies have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against children and to take immediate measures to ensure the safety of the children;

(*c*) To ensure that police, prosecutors, judges and all other relevant professionals who may be in contact with child victims respond promptly to incidents of violence against children and that relevant cases are managed expeditiously and efficiently;

(*d*) To ensure that criminal justice and other relevant professionals, in dealing with cases of child victims of violence, pay particular attention to child- and gender-sensitive approaches, including through the use of modern technologies in different stages of criminal investigations and criminal proceedings;

(*e*) To ensure that national standards, procedures and protocols are developed and implemented among relevant national actors in order to respond with sensitivity to child victims of violence whose physical or psychological integrity remains at serious risk and requires their urgent removal from the dangerous context, and that temporary protection and care are provided in an appropriate place of safety pending a full determination of the best interests of the child;

(*f*) To ensure that the police, courts and other competent authorities have the legal authority to issue and enforce protection measures such as restraining or barring orders in cases of violence against children, including removal of the perpetrator from the domicile and prohibiting further contact with the victim and other affected parties inside and outside the domicile, as well as to impose penalties for breaches of those orders in accordance with national legislation, and to ensure that, when the child victim of violence remains under the care and protection of the non-abusive parent, the parent can safeguard the child and that such protective measures are not dependent on the initiation of criminal proceedings;

(*g*) To ensure that a registration system is established for judicial protection and restraining or barring orders, where such orders are permitted by national law, so that police and other criminal justice officials can quickly determine whether such an order is in force;

(*h*) To ensure that an informal or mediated settlement of cases involving violence against children takes place only when it is in the best interests of the child, and does not involve harmful practices, such as forced marriage, taking into

account any power imbalance and the vulnerability of the child or his or her family in consenting to a settlement, with due regard for any future risk to the safety of the child or other children;

(*i*) To ensure that child victims of violence and their families have access to appropriate mechanisms or procedures in order to obtain redress and reparation, including from the State, and that relevant information about those mechanisms is publicized and easily accessible.

21. Recognizing the fact that, for prosecutions to be effective, it is often necessary for child victims of violence to participate in the criminal justice process, that in some jurisdictions children can be required or compelled to testify and that these children are vulnerable and in need of special protection, assistance and support in order to prevent further hardship and trauma that may result from their participation in the criminal justice process, Member States are required in this regard to ensure that the child's privacy is fully respected at all stages of the proceedings and are urged, as appropriate:

(*a*) To ensure the availability for children of special services, physical and mental health care and protection that take into account gender and are appropriate to the age, level of maturity and needs of the child in order to prevent further hardship and trauma and promote the physical and psychological recovery and social reintegration of child victims of violence;

(*b*) To ensure that children who have been subjected to sexual abuse, and especially girls who have become pregnant or children living with HIV/AIDS or other sexually transmitted diseases as a result of the abuse, receive age-appropriate medical advice and counselling and are provided with the requisite physical and mental health care and support;

(*c*) To ensure that child victims receive assistance from support persons commencing at the initial report and continuing until such services are no longer required;

(*d*) To ensure that professionals who are responsible for assisting child victims make every effort to coordinate support to avoid unnecessary procedures and limit the number of interviews.

## VI. Ensuring effective investigation and prosecution of incidents of violence against children

22. In order to effectively investigate and prosecute incidents of violence against children and bring the perpetrators to justice, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure that the primary responsibility for initiating investigations and prosecutions lies with the police, the prosecution and other competent authorities and does not require an official complaint to be filed by the child victim of violence or a parent or legal guardian of the child;

(*b*) To adopt and implement policies and programmes aimed at guiding all decisions concerning the prosecution of offences of violence against children and ensuring the fairness, integrity and effectiveness of such decisions;

(*c*) To ensure that the applicable laws, policies, procedures, programmes and practices related to violence against children are consistently and effectively implemented by the criminal justice system;

(*d*) To ensure that child-sensitive investigation procedures are adopted and implemented so as to ensure that violence against children is correctly identified and to help provide evidence for administrative, civil and criminal proceedings, while according due assistance to children with special needs;

(*e*) To develop and implement policies and appropriate responses regarding the investigation and collection of evidence, in particular bodily samples, that take into account the needs and views of child victims of violence in accordance with the age and maturity of child victims, respect their dignity and integrity and minimize intrusion into their lives, while abiding by national standards for the collection of evidence;

(*f*) To ensure that the persons investigating alleged incidents of violence against children have the duty, powers and necessary authorization to obtain all the information necessary to the investigation, in accordance with criminal procedure as laid out in national law, and have at their disposal all the budgetary and technical resources necessary for effective investigation;

(*g*) To ensure that great care is taken to avoid subjecting a child victim of violence to further harm through the process of the investigation, including by inviting and giving due weight to the child's views in accordance with the age and maturity of the child and adopting child-sensitive and gender-sensitive investigation and prosecution practices;

(*h*) To ensure that decisions on the apprehension or arrest, detention and terms of any form of release of an alleged perpetrator of violence against a child take into account the need for the safety of the child and others related to the child, and that such procedures also prevent further acts of violence.

## VII. Enhancing cooperation among various sectors

23. Acknowledging the complementary roles of the criminal justice system, child protection agencies, health, education and social service sectors and, in some cases, informal justice systems in creating a protective environment and preventing and responding to incidents of violence against children, Member States are urged, as appropriate:

(*a*) To ensure effective coordination and cooperation among the criminal justice, child protection, social welfare, health and education sectors in detecting, reporting and responding to violence against children and protecting and assisting child victims;

(*b*) To establish stronger operational links, particularly in emergency situations, between health and social service agencies, both public and private, and criminal justice agencies for the purposes of reporting, recording and responding appropriately to acts of violence against children, while protecting the privacy of child victims of violence;

(*c*) To establish stronger links between informal justice systems and justice and child protection institutions;

(*d*) To develop information systems and inter-agency protocols to facilitate the exchange of information and enable cooperation in identifying incidents of violence against children, responding to them, protecting child victims of violence and holding perpetrators accountable, in accordance with national laws on data protection;

(*e*) To ensure that violent acts against children, when suspected by health and social services or child protection agencies, are promptly reported to the police and other law enforcement agencies;

(*f*) To promote the establishment of specialized units specifically trained to deal with the complexities and sensitivities relating to child victims of violence, from which victims can receive comprehensive assistance, protection and intervention services, including health and social services, legal aid and police assistance and protection;

(*g*) To ensure that adequate medical, psychological, social and legal services sensitive to the needs of child victims of violence are in place to enhance the criminal justice management of cases involving violence against children, to encourage the development of specialized health services, including comprehensive, free and confidential forensic examinations by trained health providers and appropriate treatment, including HIV-specific treatment, and to facilitate and support inter-agency referrals of child victims for services;

(*h*) To provide support to children whose parents or caregivers are deprived of liberty in order to prevent and address the risk of violence such children may be exposed to as a result of the parents' or caregiver's actions or situation.

## VIII. Improving criminal proceedings in matters involving child victims of violence

24. With respect to criminal proceedings in matters involving child victims of violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure that comprehensive services are provided and protection measures are taken to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process, without prejudice to the ability or willingness of the victim to participate in an investigation or prosecution, and to protect them from intimidation and retaliation;

(*b*) To ensure that the child's views are given due weight in accordance with the age and maturity of the child, that the child is provided the opportunity to participate fully in any judicial and administrative proceedings, that every child is treated as a capable witness and that his or her testimony is not presumed to be invalid or untrustworthy by reason of the child's age alone, as long as the court or other competent authority deems that his or her age and maturity allow the giving of intelligible and credible testimony, with or without communication aids and other assistance;

(*c*) To ensure, in appropriate cases, that child victims of violence are not required to testify as part of the criminal justice process without the knowledge of their parents or legal guardians, that a child's refusal to testify does not constitute a criminal or other offence and that child victims of violence are able to testify in criminal proceedings through adequate measures and child-friendly practices that facilitate such testimony by protecting their privacy, identity and dignity, ensuring their safety before, during and after legal proceedings, avoiding secondary victimization and respecting their need and legal right to be heard while recognizing the legal rights of the accused;

(*d*) To ensure that child victims of violence, their parents or legal guardians and legal representatives, from the first contact with the justice system and throughout the judicial proceedings, are promptly and adequately informed of, inter alia, the rights of the child, the relevant procedures, available legal aid and the progress and disposition of the specific case;

(*e*) To ensure that the child victim's parents or legal guardian and, where appropriate, a child protection professional accompany the child during interviews conducted as part of the investigation and during trial proceedings, inter alia, while testifying as a witness, except in the following circumstances, as dictated by the best interests of the child:

(i) The parent(s) or the legal guardian are the alleged perpetrator(s) of the offence committed against the child;

(ii) The court deems that it is not in the best interests of the child to be accompanied by his or her parent(s) or legal guardian, including on the basis of credible concern expressed by the child;

(*f*) To ensure that proceedings relevant to the testimony of the child are explained to the child and conducted in language that is simple and comprehensible to the child and that interpretation into language that the child understands is made available;

(*g*) To protect the privacy of child victims of violence as a matter of primary importance, to protect them from undue exposure to the public, for example by excluding the public and the media from the courtroom during the child's testimony, and to protect information relating to a child's involvement in the justice process by maintaining confidentiality and restricting disclosure of information that may lead to identification of the child;

(*h*) To ensure, within the framework of national legal systems, that criminal proceedings involving child victims take place as soon as possible, unless delays are in the child's best interest;

(*i*) To provide for the use of child-sensitive procedures, including interview rooms designed for children, interdisciplinary services for child victims integrated within the same location, modified court environments that take child witnesses into consideration, recesses during a child's testimony, hearings scheduled at times of day appropriate to the age and maturity of the child, an appropriate notification system to ensure that the child goes to court only when necessary and other appropriate measures to facilitate the child's testimony;

(*j*) To ensure that, when child victims of violence may be the subject of intimidation, threats or harm, appropriate conditions are put in place to ensure their safety and that protective measures are taken, such as:

(i) Preventing direct contact between a child victim and the accused at any point during the criminal justice process;

(ii) Requesting restraining orders from a competent court, supported by a registry system;

(iii) Requesting a pretrial detention order for the accused from a competent court, with "no contact" bail conditions;

(iv) Requesting an order from a competent court to place the accused under house arrest if necessary;

(v) Requesting protection for a child victim by the police or other relevant agencies and safeguarding the whereabouts of the child from disclosure.

25. Recognizing the serious nature of violence against children and taking into account the severity of the physical and psychological harm caused to child victims, Member States are urged, as appropriate and while taking into consideration relevant

international human rights instruments, to ensure, when informal justice systems are resorted to, that violence against children is appropriately denounced and deterred, that perpetrators of violence against children are held accountable for their actions and that redress, support and compensation for child victims is provided.

26. Recognizing that measures to protect and assist child victims of violence must continue after the person accused of that violence has been convicted and sentenced, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure the right of a child victim of violence, or his or her parents or legal guardian, to be notified of the offender's release from detention or imprisonment if they so wish;

(*b*) To develop, implement and evaluate treatment and reintegration and rehabilitation programmes for those convicted of violence against children that prioritize the safety of victims and the prevention of recidivism;

(*c*) To ensure that judicial and correctional authorities, as appropriate, monitor compliance by perpetrators with any treatment or other court order;

(*d*) To ensure that the risk to a child victim of violence and the best interests of that child are considered at the time of making decisions concerning the release of the offender from detention or imprisonment or the re-entry of the offender into society.

## IX. Ensuring that sentencing reflects the serious nature of violence against children

27. Recognizing the serious nature of violence against children, while taking into account the fact that the perpetrators of that violence may also be children, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure that offences involving violence against children are, by law, punishable by appropriate penalties that take into account their grave nature;

(*b*) To ensure that national law takes into account specific factors which may aggravate a crime, including the age of the victim, the fact that the victim is severely handicapped mentally or intellectually, repeated violent acts, abuse of a position of trust or authority and perpetration of violence against a child in a close relationship with the offender;

(*c*) To ensure that people who commit acts of violence against children while under the influence of alcohol, drugs or other substances are not exempt from criminal responsibility;

(*d*) To ensure that individuals can be prohibited or restrained by a court order or other means, within the framework of the national legal system, from harassing, intimidating or threatening children;

(*e*) To ensure that safety risks, including the vulnerability of victims, are taken into account in decisions concerning non-custodial sentences, bail, conditional release, parole or probation, especially when dealing with repeat and dangerous offenders;

(*f*) To make available to the courts, through legislation, a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence, and to rehabilitate the perpetrator, as appropriate;

(*g*) To review and update national law to ensure that the decisions made by the courts in cases involving violent offences against children:

(i) Denounce and deter violence against children;

(ii) Hold offenders accountable, with due regard to their age and maturity, for their acts involving violence against children;

(iii) Promote victim and community safety, including by separating the offender from the victim and, if necessary, from society;

(iv) Allow for the severity of the physical and psychological harm caused to the victim to be taken into consideration;

(v) Take into account the impact on victims and, if affected, their family members, of sentences imposed on perpetrators;

(vi) Provide reparations for harm caused as a result of the violence;

(vii) Promote the rehabilitation of the perpetrator, including by promoting a sense of responsibility in offenders and, where appropriate, rehabilitating and reintegrating perpetrators into the community.

## X. Strengthening capacity and training of criminal justice professionals

28. Recognizing the responsibility of criminal justice professionals to prevent and respond to violence against children and to protect child victims of violence, as well as the need to facilitate and support this role, Member States are urged, as appropriate:

(*a*) To take measures and allocate adequate resources to develop the capacity of professionals within the criminal justice system to actively prevent violence against children and to protect and assist child victims of violence;

(*b*) To enable close cooperation, coordination and collaboration between criminal justice officials and other relevant professionals, especially those from the child protection, social welfare, health and education sectors;

(*c*) To design and implement training programmes for criminal justice professionals on the rights of the child, in particular on the Convention on the Rights of the Child and international human rights law, and to provide information on appropriate ways to deal with all children, in particular those who might be subject to discrimination, and to educate criminal justice professionals about the stages of child development, the process of cognitive development, the dynamics and nature of violence against children, the difference between regular peer groups and gangs, and the appropriate management of children who are under the influence of alcohol or drugs;

(*d*) To design and deliver guidance, information and training to informal justice system actors in order to ensure that their practices, legal interpretations and decisions comply with international human rights law and effectively protect children against all forms of violence;

(*e*) To design and implement mandatory, cross-cultural gender- and child-sensitivity training modules for criminal justice professionals on the unacceptability of all forms of violence against children and on the harmful impact on and consequences for all those who experience such violence;

(*f*) To ensure that criminal justice professionals receive adequate training and continuing education on all relevant national laws, policies and programmes, as well as relevant international legal instruments;

(*g*) To promote the development and use of specialized expertise among criminal justice professionals, including through the establishment, where possible, of specialized units or personnel and specialized courts or dedicated court time, and to ensure that all police officers, prosecutors, judges and other criminal justice professionals receive regular and institutionalized training to sensitize them to gender- and child-related issues and to build their capacity with regard to responding to violence against children;

(*h*) To ensure that criminal justice officials and other relevant authorities are adequately trained in their respective areas of competence:

(i) To identify and respond appropriately to the specific needs of child victims of violence;

(ii) To receive and treat all child victims of violence respectfully, with a view to preventing secondary victimization;

(iii) To handle complaints confidentially;

(iv) To conduct effective investigations of alleged incidents of violence against children;

(v) To interact with child victims in an age-appropriate and child- and gender-sensitive manner;

(vi) To conduct safety assessments and implement risk management measures;

(vii) To enforce protection orders;

(*i*) To support the development of codes of conduct for criminal justice professionals that prohibit violence against children, including safe complaint and referral procedures, and to encourage relevant professional associations to develop enforceable standards of practice and behaviour.

## Part three

## Preventing and responding to violence against children within the justice system

### XI. Reducing the number of children in contact with the justice system

29. Recognizing the importance of avoiding the unnecessary criminalization and penalization of children, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments, to ensure that any conduct not considered a criminal offence or not penalized if committed by an adult is also not considered a criminal offence and not penalized if committed by a child, in order to prevent the child's stigmatization, victimization and criminalization.

30. In this regard, Member States are encouraged not to set the minimum age of criminal responsibility at too low an age level, bearing in mind the emotional, mental and intellectual maturity of children, and in this respect reference is made to the recommendations of the Committee on the Rights of the Child to increase the lower minimum age of criminal responsibility without exception to the age of 12 years as the absolute minimum age, and to continue to increase it to a higher age level.

31. Recognizing that an important and highly effective way of reducing the number of children in the justice system is through diversion measures, restorative justice programmes and the use of non-coercive treatment and education programmes as alternative measures to judicial proceedings, as well as the provision of support for families, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To consider diversion to community-based programmes and to provide police and other law enforcement officers, prosecutors and judges with options for diverting children away from the justice system, including warning and community work, to be applied in combination with restorative justice processes;

(*b*) To foster close cooperation among the justice, child protection, social welfare, health and education sectors, so as to promote the use and enhanced application of alternative measures to judicial proceedings and to detention;

(*c*) To consider designing and implementing restorative justice programmes for children as alternative measures to judicial proceedings;

(*d*) To consider the use of non-coercive treatment, education and assistance programmes as alternative measures to judicial proceedings and the development of alternative non-custodial interventions and effective social reintegration programmes.

## XII. Preventing violence associated with law enforcement and prosecution activities

32. Mindful of the fact that police and other security forces can sometimes be responsible for acts of violence against children, Member States are urged, while taking into consideration relevant international legal instruments, to prevent abuse of power, arbitrary detention, corruption and extortion by police officers who target children and their families.

33. Member States are urged to effectively prohibit the use of all forms of violence, torture and other cruel, inhuman or degrading treatment or punishment to obtain information, extract confessions, coerce a child into acting as an informant or agent for the police, or engage a child in activities against his or her will.

34. Mindful of the fact that arrests and investigations are situations in which violence against children can occur, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure that all arrests are conducted in conformity with the law, to limit the apprehension, arrest and detention of children to situations in which these measures are necessary as a last resort, and to promote and implement, where possible, alternatives to arrest and detention, including summonses and notices to appear, in cases involving children as alleged perpetrators;

(*b*) To implement the principle that the apprehension or arrest of children should be conducted in a child-sensitive manner;

(*c*) To prohibit the use of firearms, electric shock weapons and violent methods to apprehend and arrest children, and to adopt measures and procedures that carefully limit and guide the use of force and instruments of restraint by the police while apprehending or arresting children;

(*d*) To require, ensure and monitor police compliance with the obligation to notify parents, legal guardians or caregivers immediately following the apprehension or arrest of a child;

(*e*) To ensure that, when considering whether a parent, legal guardian, legal representative or responsible adult or, when necessary, a child protection professional is to be present at, or to observe a child during, the interview or interrogation process, the best interests of the child as well as other relevant factors are taken into consideration;

(*f*) To ensure that children are informed of their rights and have prompt access to legal aid during police interrogation and while in police detention, and that they may consult their legal representative freely and fully confidentially;

(*g*) To review, evaluate and, where necessary, update national laws, policies, codes, procedures, programmes and practices to implement policies and strict procedures for searching children while respecting their privacy and dignity, for taking intimate and non-intimate samples from child suspects and for assessing the age and gender of a child;

(*h*) To implement measures to specifically prevent violence related to unlawful practices by the police, including arbitrary arrests and detention and extrajudicial punishment of children for unlawful or unwanted behaviours;

(*i*) To establish accessible, child-appropriate and safe procedures for children to complain about incidents of violence during their arrest or interrogation or while in police custody;

(*j*) To ensure that alleged incidents of violence against children during their contact with the police are independently, promptly and effectively investigated and that those alleged to have been implicated in violence against children are removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation;

(*k*) To take measures to address the risk of violence and protect children during their transport to a court, hospital or other facility, including the risk of violence while being held in court holding cells together with adults;

(*l*) To ensure that, when a parent, legal guardian or caregiver is arrested, the child's best interests, care and other needs are taken into account.

## XIII. Ensuring that deprivation of liberty is used only as a measure of last resort and for the shortest appropriate period of time

35. Recognizing that limiting the use of detention as a sentence and encouraging the use of alternatives to detention can help to reduce the risk of violence against children within the justice system, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) Not to deprive children of their liberty unlawfully or arbitrarily and, in cases of deprivation of liberty, to ensure that it is in conformity with the law and used only as a measure of last resort and for the shortest appropriate period of time;

(*b*) To ensure that children have continued access to government-funded legal aid during all stages of the justice process;

(*c*) To ensure that children can exercise their right to appeal a sentence and obtain the legal aid necessary to do so;

(*d*) To provide for the possibility of early release and make available aftercare and social reintegration programmes and services;

(*e*) To facilitate professional specialization, or at least specialized training, for criminal justice professionals dealing with children alleged as, accused of or recognized as having infringed criminal law.

## XIV. Prohibiting torture and other cruel, inhuman or degrading treatment or punishment

36. Recognizing that no child should be subjected to torture or other cruel, inhuman or degrading treatment or punishment, Member States are urged:

(*a*) To review, evaluate and, where necessary, update their national laws to effectively prohibit sentences involving any form of corporal punishment for crimes committed by children;

(*b*) To review, evaluate and, where necessary, update their national laws to ensure that, under legislation and practice, neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons when they were under 18 years of age.

## XV. Preventing and responding to violence against children in places of detention

37. Recognizing that the majority of children deprived of their liberty are in police custody or pretrial or preventive detention and that those children might be at risk of violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure that children in police custody or pretrial or preventive detention can promptly appear before a court or tribunal to challenge that detention and that they have an opportunity to be heard either directly or through a representative or an appropriate body in a manner consistent with the procedural rules of national law, in order to obtain a prompt decision on any such action;

(*b*) To reduce delays in the justice process, to expedite trials and other proceedings involving children alleged as, accused of or recognized as having infringed criminal law, and to avoid the resulting prolonged or arbitrary detention of children while they await trial or the conclusion of a police investigation;

(*c*) To ensure the effective oversight and independent monitoring of all cases of police custody or pretrial or preventive detention of children;

(*d*) To endeavour to reduce pretrial detention by, inter alia, adopting legislative and administrative measures and policies on its preconditions, limitations, duration and alternatives and by taking measures aimed at the implementation of existing legislation, as well as by ensuring access to justice and legal aid.

38. Recognizing that, when children must be detained, the conditions of detention themselves can be conducive to various forms of violence against children, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure that all detention facilities have adopted and implemented child-sensitive policies, procedures and practices, and to monitor compliance with them;

(*b*) To establish a maximum capacity for all places of detention and take concrete and sustained measures to address and reduce overcrowding in such institutions;

(*c*) To ensure that, in all places of detention, children are separated from adults and girls are separated from boys;

(*d*) To promote good practices in order to strengthen the protection and safety of children living in custody with an incarcerated parent, including consultation with the parents to determine their views regarding their child's care during the period of custody and the provision of special mother-and-child units or, where parents are detained for violation of immigration laws, separate family units in order to identify their special needs and accordingly provide appropriate protection;

(*e*) To facilitate the assessment and classification of children held in detention facilities in order to identify their special needs and accordingly provide appropriate protection and individualize treatment and interventions, including with respect to the specific needs of girls, and to ensure that there is a sufficient array of facilities to accommodate and adequately protect children of different ages or with differing needs;

(*f*) To ensure that treatment and support is offered to detained children with special needs, including to girls who are pregnant, give birth and/or raise children in detention, and that treatment for mental illness, disabilities, HIV/AIDS and other communicable and non-communicable diseases and drug addiction is offered, and to address the needs of children at risk of committing suicide or other forms of self-harm;

(*g*) To ensure that appropriate care and protection is provided to children accompanying a parent or legal guardian deprived of liberty on any ground, including for a violation of immigration law;

(*h*) To review, update and improve safety and security policies and practices within places of detention to reflect the obligation of the authorities to ensure the safety of children and protect them against all forms of violence, including violence among children;

(*i*) To prevent all forms of discrimination against or ostracism or stigmatization of detained children;

(*j*) To take strict measures to ensure that all alleged incidents of violence, including sexual abuse of children in a place of detention, are immediately reported and independently, promptly and effectively investigated by appropriate authorities and, when well founded, effectively prosecuted.

39. Recognizing also that it is imperative to minimize the risk of violence against children in detention, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure that children in detention and their parents and/or legal guardians are aware of their rights and can access the mechanisms in place to protect those rights, including access to legal aid;

(*b*) To prohibit the use of placement in a dark cell or closed or solitary confinement or any other punishment that may compromise the physical or mental health of a child;

(*c*) To adopt and implement strict policies guiding the use of force and physical restraints on children during their detention;

(*d*) To adopt policies prohibiting the carrying and use of weapons by personnel in any facility where children are detained;

(*e*) To prohibit and effectively prevent the use of corporal punishment as a disciplinary measure, to adopt clear and transparent disciplinary policies and procedures that encourage the use of positive and educational forms of discipline and to establish in law the duty of managers and personnel of detention facilities to record, review and monitor every instance in which disciplinary measures or punishment are used;

(*f*) To prohibit any form of violence or threats of violence against children by staff of places of detention in order to force children to engage in activities against their will;

(*g*) To ensure the effective supervision and protection of children, as necessary, from violence by other children and adults, including through measures to prevent bullying by adults and by other children, and from self-harm;

(*h*) To prevent violence associated with youth gang activities and racist harassment and violence within places of detention;

(*i*) To encourage and facilitate, wherever possible and in the best interests of the child, frequent family visits and regular contact and communication between children and their family members, as well as with the outside world, and to ensure that disciplinary sanctions for detained children do not include a prohibition of contact with family members;

(*j*) To prevent violence against and abuse of children suffering from mental illness or drug addiction, including through treatment and other measures to protect them from self-harm.

40. Recognizing the importance of preventing violence against children through appropriate staff recruitment, selection, training and supervision, Member States are urged, as appropriate:

(*a*) To ensure that all personnel working with children in places of detention are qualified, selected on the basis of professional capacity, integrity, ability and personal suitability, sufficiently remunerated, adequately trained and effectively supervised;

(*b*) To ensure that any person who has been convicted of a criminal offence against a child is not eligible to work in an agency or organization providing services to children, and to require agencies and organizations providing services to children to prevent persons who have been convicted of a criminal offence against a child from coming into contact with children;

(*c*) To train all personnel and make them aware of their responsibility to identify early signs of risks of violence and mitigate that risk, to report incidents of violence against children and to actively protect children against violence in an ethical and child- and gender-sensitive manner.

41. Taking into account the distinctive needs of girls and their vulnerability to gender-based violence, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To eliminate the risk of all forms of harassment, violence and discrimination against girls;

(*b*) To ensure that the special needs and vulnerabilities of girls are taken into account in decision-making processes;

(*c*) To ensure that the dignity of girls is respected and protected during personal searches, which shall only be carried out by female staff who have been properly trained in appropriate searching methods and in accordance with established procedures;

(*d*) To implement alternative screening methods, such as scans, to replace strip searches and invasive body searches in order to avoid the harmful psychological and possible physical impact of such searches;

(*e*) To adopt and implement clear policies and regulations on the conduct of staff aimed at providing maximum protection for girls deprived of their liberty from any physical or verbal violence, abuse or sexual harassment.

42. Recognizing the crucial importance of independent monitoring and inspection mechanisms, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To ensure effective monitoring of, regular access to and inspection of places of detention and community-based institutions by national independent bodies and national human rights institutions, ombudspersons or members of the judiciary, who are empowered to conduct unannounced visits, conduct interviews with children and staff in private and investigate allegations of violence;

(*b*) To ensure that they cooperate with relevant international and regional monitoring mechanisms that are legally entitled to visit institutions in which children are deprived of their liberty;

(*c*) To promote international cooperation with regard to best practices and lessons learned related to national monitoring and inspection mechanisms;

(*d*) To ensure that all deaths of children in detention facilities are reported and promptly and independently investigated, and to promptly endeavour, as appropriate, to investigate injuries suffered by children and ensure that their parents, legal guardian or closest relatives are informed.

## XVI. Detecting, assisting and protecting children who are victims of violence as a result of their involvement with the justice system as alleged or sentenced offenders

43. Given the crucial importance of providing children who report abuse and incidents of violence within the justice system with immediate protection, support and counselling, Member States are urged, as appropriate and while taking into consideration relevant international human rights instruments:

(*a*) To establish complaint mechanisms for child victims of violence within the justice system that are safe, confidential, effective and easily accessible;

(*b*) To ensure that children receive clear information, in particular when they first arrive in a place of detention, both verbally and in writing, about their rights, relevant procedures, how they can exercise their right to be heard and listened to, effective remedies to address incidents of violence and available services for assistance and support, as well as information on seeking compensation for damages, that such information is age- and culturally appropriate and child- and gender-sensitive, and that parents and legal guardians are equally provided with relevant information on these measures;

(*c*) To protect children who report abuse, specifically taking into account the risks of retaliation, including by removing those allegedly implicated in violence

against or ill-treatment of children from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, and those conducting the investigation;

(*d*) To take effective measures to protect children who provide information or act as witnesses in proceedings related to a case involving violence within the justice system;

(*e*) To provide access to fair, prompt and equitable redress mechanisms and accessible procedures for seeking and obtaining compensation for child victims of violence in the justice system, and to endeavour to adequately fund victim compensation schemes.

44. Recognizing the importance of detecting and responding to all incidents of violence against children as a result of their involvement with the justice system as alleged or sentenced offenders, Member States are urged, as appropriate:

(*a*) To ensure that laws establishing obligations to report violence against children in the justice system respect children's rights and are incorporated into the relevant regulations of agencies and rules of conduct, and that all those working with children have clear guidance on reporting requirements and consequences;

(*b*) To implement protection measures for staff who report in good faith alleged incidents of violence against children, and to adopt rules and procedures that protect the identity of professionals and private individuals who bring cases of violence against children to the attention of the competent authorities;

(*c*) To ensure the prompt, independent and effective investigation of all alleged incidents of violence against children involved with the justice system, as alleged or sentenced offenders, by competent and independent authorities, including medical personnel, with full respect for the principle of confidentiality.

### XVII. Strengthening accountability and oversight mechanisms

45. Member States are urged to take all appropriate measures to combat impunity and the tolerance of violence against children within the justice system, including through awareness-raising programmes, education and effective prosecution of violent offences committed against children within the justice system.

46. Member States are encouraged to ensure that there is a clear and sustained commitment and obligation at all levels of justice institutions to prevent and address violence against children, including in a child- and gender-sensitive manner.

47. Member States are urged, as appropriate and while taking into consideration relevant international legal instruments:

(*a*) To promote accountability for incidents of violence against children in the justice system, including by adopting and implementing effective measures to enhance integrity and prevent corruption;

(*b*) To establish internal and external accountability mechanisms in policing and in places of detention;

(*c*) To establish all key elements of an effective accountability system, including independent national oversight, monitoring and complaint mechanisms for agencies dealing with children;

(*d*) To ensure the independent, prompt and effective investigation and prosecution of offences involving violence against children within the justice system;

(*e*) To ensure that all public officials who are found to be responsible for violence against children are held accountable through workplace disciplinary measures, termination of employment and criminal justice investigations, where appropriate;

(*f*) To promote transparency and public accountability regarding all measures taken to hold accountable perpetrators of violence and those who are responsible for preventing such violence;

(*g*) To undertake criminal or other public investigations into all serious reports of violence against children at any stage of the justice process, and to ensure that such investigations are carried out by persons of integrity, are adequately funded and are completed without undue delay.

General Assembly

Distr.: General
26 January 2015

Sixty-ninth session
Agenda item 105

## Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/489)*]

### 69/195. Rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015

*The General Assembly*,

*Reaffirming its commitment* to the purposes and principles of the Charter of the United Nations and international law,

*Reaffirming also its commitment* to the declaration of the high-level meeting of the General Assembly on the rule of law at the national and international levels,[1]

*Strongly determined* to reinvigorate political will and to raise the level of the international community's commitment to moving the sustainable development agenda forward, through the achievement of the internationally agreed development goals, including the Millennium Development Goals,

*Reaffirming* the necessity of respecting and protecting human rights and fundamental freedoms in the prevention of crime and the administration of and access to justice, including criminal justice,

*Taking note* of the report of the Secretary-General entitled "A life of dignity for all: accelerating progress towards the Millennium Development Goals and advancing the United Nations development agenda beyond 2015",[2] and noting the recommendations of the Secretary-General's High-level Panel of Eminent Persons on the Post-2015 Development Agenda,[3]

*Noting* the activity of the Open Working Group on Sustainable Development Goals,

*Noting also* the thematic and national consultations on the post-2015 United Nations development agenda organized by the United Nations Development Group in many countries,

*Reiterating* that the rule of law and development are interrelated and mutually reinforcing and that the advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth,

[1] Resolution 67/1.

[2] A/68/202 and Corr.1.

[3] See A/67/890, annex.



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sustainable development, the eradication of poverty and hunger and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law,

*Reiterating also* that transnational crime must be addressed with full respect for the principles of the sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States, and in accordance with the rule of law, as part of a comprehensive response to promote durable solutions through the promotion of human rights and more equitable socioeconomic conditions, and in that regard stressing again the importance of encouraging Member States to develop, as appropriate, comprehensive crime prevention policies based on an understanding of the multiple factors that contribute to crime and to address such factors in a holistic manner, while emphasizing that crime prevention should be an integral element of strategies to foster social and economic development in all States,

*Stressing* the importance of a well-functioning, efficient, fair, effective and humane criminal justice system as the basis for a successful strategy against transnational organized crime, corruption, terrorism, drug trafficking and other forms of trafficking,

*Recalling* its resolution 67/186 of 20 December 2012, entitled "Strengthening the rule of law and the reform of criminal justice institutions, particularly in the areas related to the United Nations system-wide approach to fighting transnational organized crime and drug trafficking", and its resolution 68/188 of 18 December 2013, entitled "The rule of law, crime prevention and criminal justice in the United Nations development agenda beyond 2015",

*Acknowledging* the centrality of crime prevention and the criminal justice system to the rule of law, and also acknowledging that long-term sustainable economic and social development and the establishment of a functioning, efficient, effective and humane criminal justice system have a positive influence on each other, as stated in the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, of 2010,[4]

*Reaffirming* the importance of promoting the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,[5] the United Nations Convention against Corruption[6] and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[7]

*Reaffirming also* the importance of relevant international anti-terrorism instruments, as appropriate, and drawing on the existing United Nations standards and norms in crime prevention and criminal justice,

*Recalling* its resolution 63/23 of 17 November 2008, entitled "Promoting development through the reduction and prevention of armed violence",

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[4] Resolution 65/230, annex.

[5] United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

[6] Ibid., vol. 2349, No. 42146.

[7] Ibid., vol. 1582, No. 27627.

*Concerned* about the serious threat that violence related to transnational organized crime poses to development and the rule of law, security and well-being of communities, hindering the achievement of the Millennium Development Goals by reducing national income and productivity, diverting investment and rolling back hard-won development gains, and recognizing that comprehensive crime prevention strategies can contribute to addressing those challenges effectively,

*Recognizing* the importance of ensuring that women and girls, on the basis of gender equality, fully enjoy the benefits of the rule of law, and committed to using law to uphold equal rights and ensure their full and equal participation,

*Welcoming* the conference entitled "Bangkok Dialogue on the Rule of Law", hosted by the Government of Thailand in Bangkok on 15 November 2013, which discussed the rule of law, crime prevention and criminal justice as a substantive contribution to the discussion on the post-2015 development agenda,

*Noting* the publication of the study paper entitled "Accounting for security and justice in the post-2015 development agenda" by the United Nations Office on Drugs and Crime in 2013,

*Noting also* the publication of the "Global Study on Homicide 2013: Trends, Contexts, Data" by the United Nations Office on Drugs and Crime,

*Taking into consideration* that the main theme of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, to be held in Doha in 2015, will be "Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation",

*Convinced* that respect for and promotion of the rule of law, both nationally and internationally, are essential elements in addressing and preventing transnational organized crime and corruption, and noting that the rule of law requires strong and efficient justice sector coordination, as well as effective inter-agency cooperation and coordination with other relevant United Nations offices and activities,

1. *Recognizes* the cross-cutting nature of the rule of law, crime prevention and criminal justice and development, and recommends that such linkages and interrelationships be properly addressed and further elaborated;

2. *Underscores* that the discussions on the post-2015 development agenda should take into account respect for and promotion of the rule of law and that crime prevention and criminal justice have an important role in that regard, giving due consideration to the work of the Commission on Crime Prevention and Criminal Justice in order to channel, as appropriate, its contribution to the discussions on the post-2015 development agenda, in close consultation with all relevant stakeholders;

3. *Encourages* Member States, in their deliberations on the post-2015 development agenda, to give due consideration to the rule of law, crime prevention and criminal justice, while promoting universal respect for human rights and strengthening relevant national institutions;

4. *Requests* the United Nations Office on Drugs and Crime, as a member of the United Nations System Task Team on the Post-2015 United Nations Development Agenda, to continue to contribute analytical inputs and expertise to the work of the Task Team and to report to the Commission at its twenty-fourth session on the results of this work;

5. *Stresses* the importance of a comprehensive approach to transitional justice, incorporating the wide range of judicial and non-judicial measures to ensure accountability and promote reconciliation while protecting the rights of victims of crime and of abuse of power, drawing on the work of the United Nations Office on Drugs and Crime, in accordance with its mandates, to support criminal justice reforms and strengthen the rule of law at the national and international levels;

6. *Also stresses* the need for government institutions, the judicial system and the legislative system to be gender-sensitive and for the continued promotion of the full participation of women in such institutions;

7. *Further stresses* the importance of promoting the design and implementation of national and regional strategies and policies, as appropriate, on the rule of law, crime prevention and criminal justice as an effective and coordinated response to transnational organized crime, particularly in connection with new and emerging forms of transnational organized crime;

8. *Requests* the United Nations Office on Drugs and Crime to continue to assist Member States, upon request, in developing comprehensive crime prevention strategies, to address violence related to transnational organized crime, including urban crime, and to continue to support the exchange of expertise and good practices, with the support of civil society, as appropriate;

9. *Welcomes* the efforts of the United Nations Office on Drugs and Crime to assist Member States in improving systems for collecting and analysing data on crime prevention and criminal justice at all levels, where necessary, including gender-specific data, in order to contribute, where appropriate, to the post-2015 development agenda;

10. *Invites* the institutes of the United Nations crime prevention and criminal justice programme network to continue to include in their work programmes the issues of the rule of law, crime prevention and criminal justice, as well as to consider exploring the challenges posed by violence related to transnational organized crime, and encourages them to develop appropriate training material;

11. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations;

12. *Requests* the Secretary-General to submit, through the Commission, to the General Assembly at its sixty-ninth session a report on the implementation of the present resolution.

*73rd plenary meeting*
*18 December 2014*

General Assembly

Distr.: General
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# Resolution adopted by the General Assembly on 18 December 2014

[*on the report of the Third Committee (A/69/489)*]

## 69/196. International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences

*The General Assembly*,

*Recalling* its resolutions 66/180 of 19 December 2011 and 68/186 of 18 December 2013, entitled "Strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking",

*Recalling also* the United Nations Convention against Transnational Organized Crime, adopted by the General Assembly in its resolution 55/25 of 15 November 2000,[1] as well as the United Nations Convention against Corruption, adopted by the Assembly in its resolution 58/4 of 31 October 2003,[2]

*Recalling further* the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization on 14 November 1970,[3] the Convention on Stolen or Illegally Exported Cultural Objects, adopted by the International Institute for the Unification of Private Law on 24 June 1995,[4] and the Convention for the Protection of Cultural Property in the Event of Armed Conflict, adopted at The Hague on 14 May 1954,[5] and the two Protocols thereto, adopted on 14 May 1954[5] and 26 March 1999,[6] and other relevant conventions, and reaffirming the necessity for those States which have not done so to consider ratifying or acceding to and, as States parties, implementing those international instruments,

*Alarmed* at the growing involvement of organized criminal groups in all forms and aspects of trafficking in cultural property and related offences, and observing that illicitly trafficked cultural property is increasingly being sold through all kinds

[1] United Nations, *Treaty Series*, vol. 2225, No. 39574.
[2] Ibid., vol. 2349, No. 42146.
[3] Ibid., vol. 823, No. 11806.
[4] Ibid., vol. 2421, No. 43718.
[5] Ibid., vol. 249, No. 3511.
[6] Ibid., vol. 2253, No. 3511.



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of markets, inter alia, in auctions, in particular over the Internet, and that such property is being unlawfully excavated and illicitly exported or imported with the facilitation of modern and sophisticated technologies,

*Recognizing* the indispensable role of crime prevention and criminal justice responses in combating all forms and aspects of trafficking in cultural property and related offences in a comprehensive and effective manner,

*Recalling* the report of the Secretary-General on strengthening crime prevention and criminal justice responses to protect cultural property, especially with regard to its trafficking,[7]

*Welcoming* the initiatives promoted within the United Nations crime prevention and criminal justice programme network and the cooperative network established among the United Nations Office on Drugs and Crime, the United Nations Educational, Scientific and Cultural Organization, the International Criminal Police Organization (INTERPOL), the International Institute for the Unification of Private Law, the World Customs Organization and the International Council of Museums in the area of protection against trafficking in cultural property, and encouraging those entities to continue to play an active role in that area,

*Recalling* that the theme of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, to be held in Doha from 12 to 19 April 2015, will be "Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation", and considering that one of the workshops to be held within the framework of the Congress will focus on strengthening crime prevention and criminal justice responses to evolving forms of crime such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation,

*Reiterating* the significance of cultural property as part of the common heritage of humankind and as unique and important testimony of the culture and identity of peoples and the necessity of protecting cultural property, and reaffirming in that regard the need to strengthen international cooperation in preventing, prosecuting and punishing all aspects of trafficking in cultural property,

*Recognizing* that, in its resolution 66/180, it requested the United Nations Office on Drugs and Crime, within its mandate, in consultation with Member States and in close cooperation, as appropriate, with the United Nations Educational, Scientific and Cultural Organization, INTERPOL and other competent international organizations, to further explore the development of specific guidelines for crime prevention and criminal justice responses with respect to trafficking in cultural property,

*Recognizing also* that, in its resolution 68/186, it welcomed the progress made in exploring the development of non-binding guidelines on crime prevention and criminal justice responses with respect to trafficking in cultural property, stressed the need for their expeditious finalization, bearing in mind the importance of the matter for all Member States, and requested the United Nations Office on Drugs and Crime to reconvene the expert group on protection against trafficking in cultural property for Member States to review and revise the draft guidelines, with a view to finalizing and submitting the draft guidelines to the Commission on Crime Prevention and Criminal Justice at its twenty-third session,

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[7] E/CN.15/2013/14.

*Recognizing further* that the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, contained in the annex to the present resolution, can be considered by Member States in the development and strengthening of their policies, strategies, legislation and cooperation mechanisms to prevent and combat trafficking in cultural property and related offences in all situations,

1. *Welcomes* the work of the meeting of the expert group on protection against trafficking in cultural property held in Vienna from 15 to 17 January 2014 to finalize the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences;

2. *Adopts* the International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences, contained in the annex to the present resolution, and underlines that the Guidelines represent a useful framework to guide Member States in the development and strengthening of their criminal justice policies, strategies, legislation and cooperation mechanisms in the area of protection against trafficking in cultural property and other related offences;

3. *Strongly encourages* Member States to apply the Guidelines to the maximum extent possible, where appropriate, in view of strengthening international cooperation in this field;

4. *Encourages* Member States to undertake efforts to overcome practical difficulties in the implementation of the Guidelines in their constant endeavour to combat trafficking in cultural property, in all situations and on the basis of common and shared responsibility;

5. *Strongly encourages* Member States to evaluate and review their legislation and legal principles, procedures, policies, programmes and practices related to crime prevention and criminal justice matters, in a manner consistent with their legal systems and drawing upon the Guidelines, in order to ensure their adequacy for preventing and combating trafficking in cultural property and related offences;

6. *Invites* Member States and other relevant stakeholders attending the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice to discuss good practices and challenges in promoting international cooperation to combat trafficking in cultural property under workshop 3 (Strengthening crime prevention and criminal justice responses to evolving forms of crime such as cybercrime and trafficking in cultural property, including lessons learned and international cooperation);

7. *Requests* the United Nations Office on Drugs and Crime to continue to provide advisory services and technical assistance to Member States, upon request, in the area of crime prevention and criminal justice responses with respect to trafficking in cultural property and other related offences, in cooperation with relevant international organizations and making use of the work of the institutes of the United Nations crime prevention and criminal justice programme network, as appropriate;

8. *Also requests* the United Nations Office on Drugs and Crime to make the Guidelines widely available, including through the development of relevant tools, such as handbooks and training manuals;

9. *Further requests* the United Nations Office on Drugs and Crime, where appropriate, in consultation with Member States, to develop a practical assistance tool to assist in the implementation of the Guidelines, taking into consideration the technical background document developed for the elaboration of the Guidelines and the comments made by Member States;

10. *Invites* Member States to use all relevant tools developed by the United Nations Office on Drugs and Crime and the United Nations Educational, Scientific and Cultural Organization, including the Sharing Electronic Resources and Laws against Organized Crime knowledge management portal and the United Nations Educational, Scientific and Cultural Organization Database of National Cultural Heritage Laws, and also invites Member States to provide to the Secretariat legislation and case law related to trafficking in cultural property, for inclusion in the portal;

11. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes described above, in accordance with the rules and procedures of the United Nations;

12. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its twenty-fifth session on the implementation of the present resolution.

*73rd plenary meeting*
*18 December 2014*

## Annex

## International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences

### Introduction

1. The International Guidelines for Crime Prevention and Criminal Justice Responses with Respect to Trafficking in Cultural Property and Other Related Offences have been developed in recognition of the criminal character of such offences and their devastating consequences for the cultural heritage of humankind. Pursuant to General Assembly resolutions 66/180 and 68/186 and Economic and Social Council resolution 2010/19, draft guidelines were developed by the United Nations Office on Drugs and Crime in consultation with Member States and in close cooperation, as appropriate, with the United Nations Educational, Scientific and Cultural Organization, the International Criminal Police Organization (INTERPOL) and other competent international organizations.

2. The first draft of the guidelines was reviewed at an informal expert group meeting, held from 21 to 23 November 2011, composed of 20 experts from around the world with expertise in various fields related to the subject matter of the guidelines, including representatives of INTERPOL, the United Nations Educational, Scientific and Cultural Organization and the International Institute for the Unification of Private Law. Based on the valuable comments and advice on improving the draft, a second draft was presented to and discussed by the open-ended intergovernmental expert group on protection against trafficking in cultural property at its second meeting, held from 27 to 29 June 2012. Taking into account a compendium, prepared by the Secretariat, of comments made by Member States on the draft guidelines, the expert group reviewed and revised the guidelines at its third meeting, held from 15 to 17 January 2014, with a view to their finalization.

3. The Guidelines are based on crime prevention and criminal justice aspects of protection against trafficking in cultural property, taking into consideration a review of current practices and initiatives in several countries in addressing the problem of trafficking in cultural property, as well as principles and norms arising from the

analysis of the following international legal instruments: the United Nations Convention against Transnational Organized Crime;[8] the United Nations Convention against Corruption;[9] the Convention for the Protection of Cultural Property in the Event of Armed Conflict[10] and its First[10] and Second Protocols;[11] the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts;[12] the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property;[13] the Convention on Stolen or Illegally Exported Cultural Objects adopted by the International Institute for the Unification of Private Law;[14] and the Convention on the Protection of the Underwater Cultural Heritage.[15]

4. The present set of non-binding guidelines is available to Member States for their consideration in the development and strengthening of crime prevention and criminal justice policies, strategies, legislation and cooperation mechanisms to prevent and combat trafficking in cultural property and related offences in all situations. Their development follows the expression, by the General Assembly and the Economic and Social Council in their resolutions, of alarm at the growing involvement of organized criminal groups in all forms and aspects of trafficking in cultural property and related offences, and of the need to promote international cooperation to combat crime in a concerted manner.

5. The Guidelines have the purpose of serving as a reference for national policymakers and as a tool for capacity-building in the area of crime prevention and criminal justice responses to trafficking in cultural property and related offences, in coordination with the United Nations Educational, Scientific and Cultural Organization and other competent international organizations, as appropriate. On the basis of the guidelines finalized by the intergovernmental expert group and submitted to the Commission on Crime Prevention and Criminal Justice, and taking into consideration the technical background document containing the version of the guidelines dated April 2012, and the comments made by Member States, the Commission may ask the Secretariat to develop a practical assistance tool, as appropriate, to aid in the implementation of the Guidelines.

6. The Guidelines contain four chapters:

(*a*) Chapter I contains guidelines on crime prevention strategies (including information and data collection, the role of cultural institutions and the private sector, the monitoring of the cultural property market, imports and exports, and archaeological sites, as well as education and public awareness);

(*b*) Chapter II contains guidelines on criminal justice policies (including adherence to and implementation of relevant international treaties, the criminalization of specific harmful conduct or the establishment of administrative offences, corporate liability, seizure and confiscation and investigative measures);

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[8] United Nations, *Treaty Series*, vol. 2225, No. 39574.

[9] Ibid., vol. 2349, No. 42146.

[10] Ibid., vol. 249, No. 3511.

[11] Ibid., vol. 2253, No. 3511.

[12] Ibid., vol. 1125, No. 17512.

[13] Ibid., vol. 823, No. 11806.

[14] Ibid., vol. 2421, No. 43718.

[15] Ibid., vol. 2562, No. 45694.

(*c*) Chapter III contains guidelines on international cooperation (including matters related to jurisdictional basis, extradition, seizure and confiscation, and cooperation among law enforcement and investigating authorities, as well as the return, restitution or repatriation of cultural property);

(*d*) Chapter IV contains a guideline on the scope of application of the Guidelines.

## I. Prevention strategies

### A. Information and data collection

Guideline 1. States should consider establishing and developing inventories or databases, as appropriate, of cultural property for the purpose of protection against its trafficking. The absence of registration of cultural property in such inventories shall by no means exclude it from protection against trafficking and related offences.

Guideline 2. States should consider, where possible under their national legislation, the relevant cultural property as registered in the official inventory of a State that has enacted laws on national or State ownership, provided that the owner State has issued a public formal statement to that effect.

Guideline 3. States should consider:

(*a*) Introducing or improving statistics on import and export of cultural property;

(*b*) Introducing or improving statistics, where practical, on administrative and criminal offences against cultural property;

(*c*) Establishing or improving national databases, as appropriate, on trafficking in cultural property and related offences and on trafficked, illicitly exported or imported, stolen, looted, illicitly excavated or illicitly traded or missing cultural property;

(*d*) Introducing mechanisms to enable the reporting of suspicious dealings or sales on the Internet;

(*e*) Contributing to international data collection on trafficking in cultural property and related offences through the United Nations Survey on Crime Trends and Operations of Criminal Justice Systems, conducted by the United Nations Office on Drugs and Crime, and the INTERPOL database on stolen works of art and through other relevant organizations;

(*f*) Contributing to the United Nations Educational, Scientific and Cultural Organization database of national laws and regulations pertaining to cultural property.

Guideline 4. States should consider, as appropriate, establishing a central national authority or empowering an existing authority and/or enacting other mechanisms for coordinating the activities related to the protection of cultural property against trafficking and related offences.

### B. The role of cultural institutions and the private sector

Guideline 5. States should consider encouraging cultural institutions and the private sector to adopt codes of conduct and to disseminate best practices on policies on the acquisition of cultural property.

Guideline 6. States should encourage cultural institutions and the private sector to report suspected trafficking in cultural property cases to law enforcement authorities.

Guideline 7. States should consider promoting and supporting training on cultural property regulations for cultural institutions and the private sector, in cooperation with relevant international organizations, including rules on the acquisition of cultural property.

Guideline 8. States should encourage, as appropriate, Internet providers and web-based auctioneers and vendors to cooperate in preventing trafficking in cultural property, including through the adoption of specific codes of conduct.

### C. Monitoring

Guideline 9. States should consider, in accordance with the relevant international instruments, introducing and implementing appropriate import and export control procedures, such as certificates for the export and import of cultural property.

Guideline 10. States should consider creating and implementing monitoring measures for the market of cultural property, including for the Internet.

Guideline 11. States should, where possible, create and implement programmes for research, mapping and surveillance of archaeological sites for the purpose of protecting them against pillage, clandestine excavation and trafficking.

### D. Education and public awareness

Guideline 12. States should consider supporting and promoting public awareness campaigns, including through the media, to foster among the general public a culture of concern about trafficking in cultural property, for the purpose of protecting that cultural property against pillage and trafficking.

## II. Criminal justice policies

### A. International legal texts

Guideline 13. States should consider adopting legislation criminalizing trafficking in cultural property and related offences in accordance with applicable existing international instruments, in particular the Organized Crime Convention, relating to trafficking in cultural property and related offences.

Guideline 14. In bilateral cooperation, States may consider making use of the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property.[16]

### B. Criminal and administrative offences

Guideline 15. States should consider defining the concept of "cultural property", including movable and immovable cultural property, when necessary, for the purposes of criminal law.

Guideline 16. States should consider criminalizing, as serious offences, acts such as:

(*a*) Trafficking in cultural property;

[16] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August–7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.1, annex.

(*b*) Illicit export and illicit import of cultural property;

(*c*) Theft of cultural property (or consider elevating the offence of ordinary theft to a serious offence when it involves cultural property);

(*d*) Looting of archaeological and cultural sites and/or illicit excavation;

(*e*) Conspiracy or participation in an organized criminal group for trafficking in cultural property and related offences;

(*f*) Laundering, as referred to in article 6 of the Organized Crime Convention, of trafficked cultural property.

Guideline 17. States should consider introducing in their criminal legislation other offences, such as damaging or vandalizing cultural property or acquiring, with conscious avoidance of the legal status, trafficked cultural property, when such offences are related to trafficking in cultural property.

Guideline 18. States should consider introducing obligations, as appropriate, to report suspected cases of trafficking of and related offences against cultural property and to report the discovery of archaeological sites, archaeological finds or other objects of relevant cultural interest, and, for those States that have done so, to criminalize the failure to meet those obligations.

Guideline 19. States should consider making it possible, in a way not contradictory to their fundamental legal principles, to infer a perpetrator's knowledge that an object has been reported as trafficked, illicitly exported or imported, stolen, looted, illicitly excavated or illicitly traded, on the basis of objective factual circumstances, including when the cultural property is registered as such in a publicly accessible database.

### C. Criminal and administrative sanctions

Guideline 20. States should consider providing proportionate, effective and dissuasive sanctions for the above-mentioned criminal offences.

Guideline 21. States may consider adopting custodial sanctions for some selected criminal offences so as to meet the standard, required under article 2 (b) of the Organized Crime Convention, for "serious crime".

Guideline 22. States should consider the adoption of bans and disqualifications, and the revocation of licences, as complementary criminal or administrative sanctions whenever possible.

### D. Corporate liability

Guideline 23. States should consider introducing or extending liability (criminal, administrative or civil in nature) of corporations or legal persons for the above-mentioned offences.

Guideline 24. States should consider introducing proportionate, effective and dissuasive sanctions for corporate offences of trafficking in cultural property and related offences, including fines, bans or disqualifications, revocation of licences and revocation of benefits, including tax exemptions or government subsidies, where possible.

### E. Seizure and confiscation

Guideline 25. States should consider introducing criminal investigation and the search, seizure and confiscation of trafficked cultural property, as well as the proceeds of crimes related to such trafficking, and ensure its return, restitution or repatriation.

Guideline 26. States should consider, in a way not contradictory to their fundamental legal principles, the possibility of requiring that the alleged offender, the owner or the holder (if different) demonstrate the lawful origin of cultural property liable to seizure or confiscation for trafficking or related offences.

Guideline 27. States should consider introducing confiscation of the proceeds of the offence or of property of a value equivalent to such proceeds.

Guideline 28. States may consider using confiscated economic assets for financing expenses for recovery and other prevention measures.

### F. Investigations

Guideline 29. States should consider creating specialized law enforcement bodies or units, as well as providing specialized training for customs officials, law enforcement personnel and public prosecutors, with regard to trafficking in cultural property and related offences.

Guideline 30. States should consider enhancing coordination, at both the national and international levels, among law enforcement bodies in order to increase the probability of discovering and successfully investigating trafficking in cultural property and related offences.

Guideline 31. States may consider, in the investigation of the above-mentioned offences, especially if related to organized crime, allowing for the appropriate use by their competent authorities of controlled delivery and other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within their territory, and allowing for the admissibility in court of evidence derived therefrom.

## III. Cooperation

### A. Jurisdiction

Guideline 32. States should consider establishing their jurisdiction over the above-mentioned criminal offences when such offences are committed within their territory or when committed outside their territory by one of their nationals, in a manner consistent with the principles of sovereign equality, the territorial integrity of States and non-intervention in the domestic affairs of other States, as enshrined in the Charter of the United Nations and the Organized Crime Convention.

### B. Judicial cooperation in criminal matters

Guideline 33. States that have not yet done so should consider becoming parties to existing international law instruments, in particular the Organized Crime Convention, and use them as a basis for international cooperation in criminal matters in respect of trafficking in cultural property and related offences.

Guideline 34. States should consider providing each other with the widest possible mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the above-mentioned offences, also in order to enhance the effectiveness and speed of the procedures.

Guideline 35. States should contribute to and regularly update the United Nations Educational, Scientific and Cultural Organization Database of National Cultural Heritage Laws and any other relevant database.

### C. Extradition

Guideline 36. States should consider making the crimes against cultural property enumerated in guideline 16 extraditable offences. In the context of extradition procedures, States should also consider adopting and applying, where possible, provisional measures to preserve the cultural property related to the alleged offence for the purpose of restitution.

Guideline 37. States should consider enhancing the effectiveness and speed of extradition for trafficking in cultural property and related offences, where such offences are considered extraditable.

Guideline 38. States should consider, in the case of refusal of extradition only on the basis of nationality, submitting the case, when requested by the State that had sought extradition, to the competent authority in order to consider prosecution.

### D. International cooperation for purposes of seizure and confiscation

Guideline 39. States should consider cooperating in identifying, tracing, seizing and confiscating trafficked, illicitly exported or imported, stolen, looted, illicitly excavated, illicitly traded or missing cultural property.

Guideline 40. States may consider putting in place mechanisms to enable the contribution of confiscated financial assets to international or intergovernmental bodies concerned with the fight against transnational organized crime, including trafficking in cultural property and related offences.

### E. International cooperation among law enforcement and investigating authorities

Guideline 41. States should consider enhancing the exchange of information on trafficking in cultural property and related offences by sharing or interconnecting inventories of cultural property and databases on trafficked, illicitly exported or imported, stolen, looted, illicitly excavated, illicitly traded or missing cultural property, and/or contributing to international ones.

Guideline 42. States should consider, where appropriate, in the framework of international judicial cooperation, enhancing the exchange of information on previous convictions and ongoing investigations relating to trafficking in cultural property and related offences.

Guideline 43. States should consider concluding bilateral or multilateral agreements or arrangements in order to establish joint investigative teams for trafficking in cultural property and related offences.

Guideline 44. States should consider assisting each other in planning and implementing specialized training programmes for law enforcement personnel.

Guideline 45. States should consider enhancing or establishing privileged channels of communication between their law enforcement agencies.

### F. Return, restitution or repatriation

Guideline 46. States should consider, in order to enhance international cooperation in criminal matters, undertaking appropriate measures to recover trafficked, illicitly

exported or imported, stolen, looted, illicitly excavated or illicitly traded cultural property for the purpose of their return, restitution or repatriation.

Guideline 47. States should consider pondering, procedurally, as appropriate, the owner State's provisions on national or State ownership in order to facilitate the return, restitution or repatriation of public cultural property.

## IV. Scope of application

Guideline 48. States should consider applying the Guidelines in any situations, including exceptional circumstances, that foster trafficking in cultural property and related offences, in the framework of the above-mentioned conventions and other relevant international instruments.